United Nations A/AC.109/2000/2

General Assembly

Distr.: General
27 March 2000
Original: English

Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Pitcairn

Working paper prepared by the Secretariat

Contents

		Paragraphs	*Page*
I.	General	1–2	2
II.	Constitutional and legal developments	3–19	2
III.	Economic conditions	20–32	3
IV.	Social and educational conditions	33–36	5
V.	Future status of the Territory	37–40	6
	A. Position of the administering Power	37–39	6
	B. Consideration by the General Assembly	40	6

00-36204 (E) 250400

I. General

1. Pitcairn[1] is located midway between Australia and South America at 25°S and 130°W. It comprises four islands in the western Pacific Ocean (Pitcairn, the only one of which is inhabited, Henderson, Ducie and Oeno). Although there is evidence of previous habitation by Polynesian peoples, Pitcairn was uninhabited when castaways from the HMS *Bounty* (9 mutineers and 19 Polynesians) arrived there in 1790. Today Pitcairn is inhabited by their descendants. The population of Pitcairn has been declining steadily since 1937, when it was approximately 200. According to the administering Power, on 1 January 1999 the total population of the Territory was 66. All the population live in Adamstown, the only settlement in Pitcairn. The terrain in Pitcairn is of rugged volcanic formation with a rocky coastline with cliffs.

2. The official language is English and the Pitcairn Islanders also have their own local dialect, a mixture of eighteenth century English and Tahitian.

II. Constitutional and legal developments

3. A detailed description of Pitcairn's constitutional arrangements is contained in document A/AC.109/1999/1. A summary is given below.

4. The Pitcairn Order 1970 and the Pitcairn Royal Instructions 1970 are in effect the Constitution of Pitcairn. These instruments established the office of Governor and regulate his powers and duties. The Governor is appointed by the Queen, acting on the advice of the Secretary of State for Foreign and Commonwealth Affairs of the United Kingdom of Great Britain and Northern Island, to whom he is accountable. In practice, the United Kingdom High Commissioner to New Zealand is appointed concurrently as Governor of Pitcairn and the responsibility for the administration of the island is accordingly vested in him and is discharged by him and officers subordinate to him.

5. Under the 1970 Order, the Governor has legislative authority for Pitcairn and is empowered to formulate laws on any subject. Laws enacted by the Governor are styled ordinances. Formally, all ordinances are subject to disallowance by the Queen, on the advice of the Secretary of State. The Government of the United Kingdom retains the power to legislate directly for Pitcairn by an Act of Parliament or an order in council. It is under his legislative power that the Governor establishes courts for Pitcairn and regulates their jurisdiction and procedures (see paras. 11-13 below). The 1970 Order also vests in the Governor the power to appoint persons to offices in the public service and to remove or discipline them.

6. Pitcairn Islanders manage their internal affairs through the Island Council. The Council was established by the Local Government Ordinance, which confers on it the duty to provide for the enforcement of the laws of Pitcairn and empowers it to make regulations for the good administration of Pitcairn, the maintenance of peace, order and public safety and the social and economic advancement of the islanders.

7. The Council is required to meet at least once a month. It now consists of 10 members: the Island Mayor (who since December 1999 has replaced the Island Magistrate as a member of the Council, see para. 8 below), elected every three years; the Chairman of the Internal Committee, who is elected annually; 4 other elected members, who are also elected annually; the Island Secretary, who is a public officer and serves on the Council ex officio; 1 nominated member, who is appointed annually by the Governor; and 2 advisory (non-voting) members, of whom 1 is appointed annually by the Governor and the other is appointed annually by the other members of the Council.

8. In December 1999, Pitcairn elected its first ever Mayor, thus ending the century-old practice of naming a Magistrate to head the local government. Steve Christian, a direct descendant of Fletcher Christian, leader of the mutiny on the HMS *Bounty*, was elected to the post. Jay Warren, who had served as Pitcairn's Magistrate until then, was named chairman of Pitcairn's Internal Committee (see para. 9 below). Mr. Warren was also asked to perform the judicial role of a magistrate if such was required in the future. Four Islanders were elected to the Pitcairn Island Council and Betty Christian was named as Island Secretary.[2]

9. The Island Council's decisions are implemented by the Internal Committee, whose formal functions are to carry out the orders of the Council and to perform such duties as the Council may direct. In practice, the principal function of the Committee is to organize and implement the public works programme, for which all adult and able-bodied Pitcairn Islanders are

responsible. The Committee comprises the Chairman and such other persons (not being members of the Council or public officers) as the Council, with the Governor's approval, may appoint.

10. The Island Secretary and other non-elected officials (e.g., the postmaster, the radio officer and the police officer) are appointed by the Governor, invariably after consultation with the Council.

11. The court system of Pitcairn includes the Supreme Court, the Subordinate Court and the Island Court. The Supreme Court consists of such a judge or judges as the Governor, acting in accordance with instructions from the Secretary of State, may from time to time appoint. It has unlimited jurisdiction in all civil and criminal matters.

12. The Subordinate Court consists of a magistrate, who is any proper person whom the Governor appoints for that purpose. The Court ordinarily has the same jurisdiction and powers in criminal cases as a magistrate's court in the United Kingdom and the same jurisdiction and powers in civil cases as a county court in the United Kingdom. There is a right to appeal in all cases to the Supreme Court.

13. The Island Court consists of the Island Magistrate and two councillors. Its jurisdiction is limited to offences that are committed within the islands or in territorial waters by residents of the Territory in contravention of the Island Code, and civil actions. The Island Court is rarely required to sit.

14. Pitcairn's Constitution, as embodied in the Pitcairn Order 1970 and the Pitcairn Royal Instructions 1970, does not contain any provisions expressly guaranteeing human rights, nor has any formal machinery been established specifically for that purpose.

15. For the most part, however, the legal protection of the human rights of Pitcairn Islanders does not depend on specific legislation but it is assured through the enforcement by the local courts of the basic principles of the law in force on the island, which follow the same basic principles as the laws of the United Kingdom.

16. The violation of the rights of any person is justiciable by way of injunction and damages in the Supreme Court. In addition, individuals subject to Pitcairn jurisdiction have direct rights of recourse to the United Nations Human Rights Committee, as a result of the accession by the Government of the United Kingdom on behalf of Pitcairn to the Optional Protocol to the International Covenant on Civil and Political Rights.

17. The Governor has the ultimate responsibility for overseeing the implementation of human rights in Pitcairn. Any complaint of unlawful or oppressive action by any government official or authority can be raised with him, either directly or through one of his subordinate officers, and will be investigated thoroughly. If the complaint proves to be well founded, he has the power to take appropriate remedial measures.

18. The laws in force in Pitcairn, including any specifically relating to human rights, are published by the Government of the United Kingdom and are accessible to all on the island through the Island Secretary's office.

19. The Territory's reports to international bodies are prepared by the Government of the United Kingdom, drawing on information provided by the Governor and the Commissioner.

III. Economic conditions

20. Pitcairn's principal sources of income are stamp sales and revenue from interest and dividends. It is estimated that Pitcairn earns US$ 500,000 annually from the sale of stamps.[3] In 1997/98, income for the year was $NZ 491,838 and expenditures were $NZ 666,799, leaving a deficit of $NZ 174,961. Although there is no taxation in the Territory, each person between the ages of 15 and 65 is required to perform public work each month in lieu of taxation.

21. The Territory's private sector economy is based on subsistence agriculture and fishing and the sale of handicrafts, mainly to passing ships. Bartering is an important part of the economy. The fertile soil of the valleys produces a wide variety of fruits and vegetables, including citrus, sugar cane, watermelons, bananas, yams and beans. Fish is the main source of protein in the Islanders diet. Pitcairn exports fruits, vegetables and handicrafts and imports fuel oil, machinery, building materials, cereals, milk, flour and other foodstuffs. The Territory also exports honey, which is reported to have been found by the New Zealand Ministry of Agriculture and Forestry to be an exceptionally pure product. Recently Pitcairn has

begun to develop a dehydrated fruit industry; it now exports dried bananas, mango and pineapple and is said to be preparing to export jams, dried fish and coffee. Pitcairn's food export business is expected to add substantially to the Territory's economy.[4] To protect Pitcairn's developing agriculture industry, all honey and other bee products, used bee-keeping tools and equipment are banned from entry into Pitcairn. Pitcairn's products are sold in New Zealand and the United States of America and a Pitcairn Island Producers' Cooperative has been established to handle marketing.[4]

22. The island of Oeno, 80 nautical miles north-west of Pitcairn, is the primary source for prized miro wood, which is the wood preferred for hand-carved Pitcairn handicrafts. The island of Henderson, which is difficult to access, is the largest of the group and the most productive of the three satellite islands. Semi-annual trips are conducted by the Islanders when substantial quantities of miro wood are required. The Islanders also make the voyage to Oeno, known as their "holiday island" once a year for a week of fishing, gathering coconuts and shells. Traditionally, the fish caught in these expeditions is shared equally among the families in the Territory.[2]

23. According to reports, the Pitcairn Investment Fund, based on the sale of Pitcairn stamps, which has long provided financial subsidies for high-cost needs such as utilities, travel to New Zealand for medical treatment and transporting supplies to the Territory, is in danger of depletion within three years. According to the administering Power, Pitcairn's financial situation has slowly worsened as its expenditures have exceeded revenue over recent years; withdrawals to cover these deficits have diminished the Fund further.

24. In order to extend the life of the Fund, the Pitcairn Islanders have chosen a modified subsidy plan. They have voted to allow a more than doubling of their electrical charges and the initiation of ocean freight charges on items that were once free of charge or heavily subsidized.[5] The administering Power has indicated that in considering options for strengthening the Fund it was decided to project a 10-year financial framework plan. The intention is that the financial framework will include a review of ideas for Pitcairn to maximize its revenue and minimize its costs. The framework has not yet been finalized and work continues in this respect.

25. A new economic plan, put in operation at the beginning of 2000, provides help to Pitcairn's pensioners and families with children. The plan will be reviewed at the end of six months to assess its effect. The Territory's new economic plan was developed by Pitcairn Commissioner Leo Salt in concert with an economist and an official from the United Kingdom Department for International Development. If the plan accomplishes what is expected, the Pitcairn Investment Fund will remain solvent for 10 years. According to Commissioner Salt, income received beyond current projections may increase allowances for paid positions in Pitcairn. One possibility is income the Territory may receive through a recent recapturing of its Internet domain registry (".pn"), by action of the United States Government and the Internet Corporation for Assigned Names and Numbers. Another attempt to increase the Investment Fund will include vigorous efforts to increase the sale of Pitcairn's stamps throughout the world. Yet another possibility for additional income is the resurgence in the number of cruise ships calling at Pitcairn. Currently, 10 such vessels are scheduled to call at Pitcairn during the year, where in the past only two or three such visits were made annually.[6]

26. The electrical rate increase may have a negative impact on a budding industry in locally produced dehydrated fruits and honey. Some Pitcairn Islanders have ordered propane heaters, but the cost of shipping supplies is also high. The Islanders were charged 20 cents (NZ) per electrical unit, while the cost to the Investment Fund was 50 cents per unit, not including the cost of parts and maintenance of electrical generating equipment. With the growth of the fruit drying industry, the expenses covered by the fund became even greater. The possibility of using solar fruit dryers is being studied.[5]

27. The control of land on Pitcairn, long held by individuals, is slated for future government control. The reason given for this change is that the Government will be better able to care for the upkeep of absentee landlord properties as a number of former residents who continue to hold title to land on the island have moved abroad.[7]

28. A cooperative store, established in 1967, is open three times a week for a short period. Basic food commodities are obtainable when supplies are available. Flour, eggs, meat and butter are provided if ordered several months in advance as they must be imported from New Zealand.

29. Diesel-driven generators provide 240-volt electric power for approximately four hours each evening and for two hours each morning. A simple telephone system operates in the Territory. Overseas communications are maintained through surface mail and, since 1992, via satellite (telephone, fax, telex). Pitcairn recently released a trial set of phone/fax cards for the new satellite communications. The Pitcairn Radio Station is operational between the hours of 1800 and 0530 GMT.

30. Visitors to Pitcairn must first obtain from the Office of the Commissioner for Pitcairn Island in New Zealand a licence to land and reside there. Licences are valid for six months but may be renewed for further similar periods by the Governor. The Island Mayor, subject to the direction of the Governor, is empowered to permit ashore crew members and passengers of any visiting vessel.

31. Access to Pitcairn is possible only by sea and usually by container vessels plying between New Zealand and the United Kingdom or the eastern seaboard of the United States or the Caribbean, via the Panama Canal. Such vessels are expected to call northbound approximately three times a year, but there is no regular, scheduled service. There are no hotels or guest houses, but accommodation for visitors may be arranged with one of the Territory's families on prior application to the Island Magistrate.

32. All roads are unpaved. Motorcycles provide a frequently used mode of transport. Discussion on the possibility of building an airstrip on Pitcairn has continued for several years. As previously reported, a study commissioned some years ago determined that there would be no great technical difficulties in constructing an airstrip sufficient for light aircraft to make the 1,000 kilometre round trip from French Polynesia to Pitcairn. In April 1999, it was reported that after a visit to the Territory, the Governor of Pitcairn, Martin Williams, had said the Territory was likely to get an airstrip. He mentioned that an official from the United Kingdom Department of International Development had looked at the most promising site for an airstrip of up to 1,980 feet. He said that the operating arrangements needed to be worked out but he hoped the airstrip would be approved in 1999.[8] No further information was available to the Secretariat on this matter.

IV. Social and educational conditions

33. The population of the Territory is self-employed, but allowances and wages are paid to members of the community who participate in local government activities and who perform communal services. Information available indicates that in 1998 there were eight working men. This development is viewed with concern by the islanders since it takes four men to handle the big boats that go out to meet passenger ships.[5] According to an information sheet provided by the Office of the Commissioner for Pitcairn Island in New Zealand, the only jobs in the Territory are government posts normally reserved for permanent residents of Pitcairn. There are no banking facilities, but personal cheques and traveller cheques may be cashed at the Island Secretary's office (see para. 8).

34. Education is free and compulsory for all children between 5 and 15 years of age. The school is operated and financed by the Government. Instruction is in the English language and is based on the New Zealand standard curriculum. A trained teacher is recruited in New Zealand, normally for a two-year term. In 1996, it was reported that school enrolment was 13 students. Post-primary education is conducted at the school by correspondence courses arranged through the New Zealand Department of Education. Most Pitcairn Islanders are members of the Seventh Day Adventist Church, which is the only church on the island.

35. The general health of the community is entrusted to a registered nurse working out of a government dispensary. Registered medical practitioners are employed from time to time for periods of between two and six months. The population also benefits from the services of visiting doctors travelling on ships that stop at the island. There is no doctor permanently stationed on Pitcairn.

36. A British police officer spent two months in Pitcairn in 1997 to organize law enforcement on the island. The police officer set up a traffic code for the Territory's roads and reviewed other procedures. The Territory is reported not to have had trained or experienced police for several years.

V. Future status of the Territory

A. Position of the administering Power

37. On 6 October 1999, the representative of the United Kingdom made a statement before the Fourth Committee.[9] The representative said that over the past year her Government had made further progress in its efforts to transform its relationship with its overseas Territories into a fully modern partnership, based on four fundamental principles: self-determination, mutual obligations, freedom for the Territories to run their affairs to the greatest degree possible and a firm commitment from the United Kingdom to help the Territories economically and to assist them in emergencies.

38. Among the measures being taken was the decision to offer British citizenship and the right of abode to those people of the overseas Territories who did not already enjoy it, thus meeting a long-standing request of the peoples of the Territories. Additional steps had been taken to encourage good governance in the Territories through improved regulation of financial services to meet internationally acceptable standards. Enhanced measures were also being studied to combat drug trafficking, and to encourage reform of local legislation in some Territories to comply with the same standards of human rights as the United Kingdom. The United Kingdom would also continue to support strengthened measures and devote resources for sustainable economic development and environmental management and protection in the overseas Territories.

39. Those efforts clearly demonstrated her Government's continuing firm commitment to a new and strengthened relationship with the Territories, and its serious view of its responsibilities under the Charter of the United Nations. For the United Kingdom the wishes of the peoples concerned, exercised in accordance with the other principles and rights set out in the Charter and in other international treaties, were of paramount importance. The United Kingdom had always affirmed that it was prepared to consider any proposals about their future put forward by the peoples of the Territories themselves. Self-determination thus remained one of the fundamental principles that guided her Government's relationship with the Territories. Her Government therefore found it regrettable that the Special Committee continued to apply that principle selectively.

B. Consideration by the General Assembly

40. On 6 December 1999, the General Assembly adopted without a vote resolutions 54/90 A and B. Section VIII of resolution 54/90 B on 11 Non-Self-Governing Territories is specifically devoted to Pitcairn.

Notes

[1] The information contained in the present paper has been derived from information transmitted to the Secretary-General by the Government of the United Kingdom of Great Britain and Northern Ireland, under Article 73 *e* of the Charter of the United Nations, on 20 April 1998 and from published sources and Pitcairn Web sites.

[2] *Pitcairn News*, 30 November and 11 December 1999, Web site, from the Web site of the Pacific Union College, Angwin, California (http://library.puc.edu/pitcairn), Pitcairn Islands Study Center.

[3] *Pacific Islands Report*, February/March 1999, from the Web site of the Pacific Islands Development Program, East-West Center, Center for Pacific Islands Studies, University of Hawaii, Manoa, Hawaii (http://pidp.ewc.hawaii.edu/pireport).

[4] *Pitcairn News*, 10 November 1999.

[5] Ibid., 5 January and 22 February 2000.

[6] Ibid., 22 February 2000.

[7] Ibid., 5 January 2000.

[8] *Pacific Islands Report*, 9 April 1999.

[9] A/C.4/54/SR.5.

United Nations A/AC.109/2000/3

General Assembly

Distr.: General
29 April 2000

Original: English

Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

American Samoa

Working paper prepared by the Secretariat

Contents

		Paragraphs	*Page*
I.	General	1–3	3
II.	Historical background	4–6	3
III.	Political and constitutional structure	7–13	3
IV.	Population	14–17	4
V.	Economic conditions	18–72	5
	A. General	20–22	5
	B. Public service	23–25	5
	C. Public finance	26–35	6
	D. Land	36–38	7
	E. Fisheries	39–43	7
	1. Domestic fishing tradition	39–41	7
	2. Fishing industry	42–43	8
	F. Other industrial activities	44–47	8
	G. Tourism	48–51	9
	H. Transport and communications	52–63	9
	1. Roadways	52–55	9
	2. Seaports	56–58	9

00-41004 (E) 100500

	3. Airports	59–61	10
	4. Communications	62–63	10
I.	Water, sanitation system and utilities	64–69	10
	1. Water	65	10
	2. Electricity/power	66–67	10
	3. Sanitation	68–69	10
J.	Financial institutions and other businesses	70–72	11
VI.	Social conditions	73–91	11
A.	Labour	73–74	11
B.	Immigration	75–76	11
C.	Public health	77–82	12
D.	Environment	83–84	12
E.	Crime and crime prevention	85–86	13
F.	Housing	87	13
G.	Education	88–91	13
VII.	Participation in international organizations and other arrangements	92–95	13
VIII.	Deliberations at the United Nations on the status of the Territory	96–99	14

I. General

1. American Samoa,[1] a Non-Self-Governing Territory of the United States of America, is located in the South Pacific approximately 3,700 kilometres south-west of Hawaii and 4,350 kilometres north-east of Australia. It consists of seven islands (Tutuila, Aunuu, Ofu, Olosega, Tau, Swains and Rose) and several lesser islands belonging to the Samoan group. Swains Island is 340 kilometres north of Tutuila, and is administered as an integral part of American Samoa. The terrain includes five volcanic islands with rugged peaks and limited coastal plains, and two coral atolls, Rose Island and Swains Island.[2] The total land area of the Territory is 197 square kilometres, about 70 per cent of which is covered by dense forest. Lying near the equator, between 13° east and 16° south-east, American Samoa has a typical tropical climate with a wet and a dry season. Tutuila, the largest island, constitutes 70 per cent of the total land area and is home to 90 per cent of the population. Pago Pago, the capital and the site of one of the Pacific's greatest natural harbours, is located on Tutuila.

2. The Samoan islands are in the path of the south-west trade winds, which bring frequent rains, averaging 200 inches annually and resulting in lush vegetation in most of the islands, most of the time. The mountainous terrain and the heavy annual rainfall have important implications for agriculture and the domestic food supply. The soil of the slopes is thin as a result of leaching and can support only jungle vegetation. The soil in the valleys and on the plains is fertile and suitable for growing tropical fruits and vegetables, but there is not much of it. Commercial agricultural development has been constrained by the scarce supply of level land for which there are a number of competing uses.[3]

3. The economy is based on subsistence farming and fishing, government services, tuna processing and light manufacturing. Future income is expected to be dependent on the canneries, remittances from American Samoans and United States entitlements. The United States dollar is the official currency. English and Samoan are the two major languages. American Samoa has been a United States territory since 1899 and American Samoans are United States nationals, not citizens.

II. Historical background

4. It is generally believed that the Samoan archipelago was settled some 3,000 years ago by people migrating into the Pacific from South-East Asia. The Dutch were the first Europeans to find these islands in 1722. Some settlers came to the islands in the early 1800s, followed by missionaries in 1830. By the late 1800s, internal strife among the chiefs and struggles among the colonial powers of Germany, Great Britain and the United States led to a period of instability. In 1899, after the signing of a treaty by the three powers, Germany annexed Western Samoa and a year later, in 1900, the eastern islands (American Samoa) were ceded to the United States.[3] American Samoa will celebrate its centennial Flag Day on 17 April 2000.

5. Deeds of cession of these islands to the United States were formally accepted by means of an Act of Congress on 20 February 1929. Pursuant to this Act, the native inhabitants were given the status of American nationals. The Act provided for an American Samoan Government with all civil, judicial and military powers to be vested in a designee of the President of the United States.

6. American interest in the eastern end of the Samoan archipelago was mainly military. Pago Pago Harbour, one of the deepest natural harbours in the South Pacific, was seen to be of value as a coaling station for American ships. Consequently, the territory was placed under the jurisdiction of the United States Navy which controlled access to it and appointed its Governor until 1951. An executive order transferred authority over the territory to the Department of the Interior in 1951, paving the way for civilian rule.[3]

III. Political and constitutional structure

7. A constitutional committee was set up in 1954 at the recommendation of the Governor and with the approval of the Secretary of the Interior and the Samoan legislature. The Constitution was completed in 1960 after six years of debate and drafting. Ratified and approved by the Secretary of the Interior on 27 April, it was adopted by the Constitutional Convention of the Samoan people on that same day.[4] It came into effect on 17 October 1960, was revised in 1967 and

subsequently amended in 1970 and 1977. Any amendments or modifications to the Constitution of American Samoa (as approved by the Secretary of the Interior) may be made only by an Act of the United States Congress.

8. In constitutional referenda held in successive years between 1972-1974, American Samoans rejected a proposal to elect their own Governor. In a plebiscite held on 31 August 1976, the people of American Samoa voted to elect their own Governor and the first elected Governor was sworn in on 3 January 1978. The next election is to be held in November 2000. Since 1981, American Samoa has also elected, by direct vote, a non-voting delegate to the United States House of Representatives, who can, however, vote in committees. The current delegate was re-elected in November 1998.

9. As it is an unincorporated and unorganized territory of the United States, not all provisions of the United States Constitution apply in American Samoa. Residents of American Samoa are not United States citizens. Residents of United States territories cannot vote in the United States general election but are permitted to participate in presidential primaries and caucuses. They are United States nationals who can freely enter the United States and work and reside anywhere they choose. Because of the Territory's status, American Samoans have their own immigration laws, and entry into American Samoa by foreigners is not the same as entry into the United States (in contrast with Guam, where United States immigration laws apply).[3]

10. The Constitution provides for separate executive and legislative branches and an independent judiciary. All American Samoans over age 18 are eligible to vote.

Executive

11. The executive branch comprises a Governor and a Lieutenant-Governor elected for four years by universal adult suffrage. The current Governor, Mr. Tauese Pita Sunia and Lt. Governor, Mr. Togiola Tulafono, were elected in November 1996. The next election will be held in November 2000. The Governor is responsible for executing both the American Samoan code and executive rules as well as those United States laws and portions of the United States Constitution that are applicable to American Samoa.

Legislature

12. There is a bicameral legislature, known as the Fono, which comprises an 18-member Senate and a 20-member House of Representatives. The members of the House of Representatives (the lower House) are elected by popular vote, while members of the Senate are chosen by traditional tribal councils. Only *matais* (or chiefs) can become senators. Legislative reappointment is effected at least once every five years.[4] The Fono may pass laws with respect to all local affairs, provided its laws are not inconsistent with United States laws in force in the Territory or with United States treaties or international agreements. The Fono convenes for two 45-day sessions a year.

Judiciary

13. The Chief Justice and Associate Justices of the High Court are appointed by the United States Secretary of the Interior. The judiciary consists of a High Court with jurisdiction throughout the Territory. The High Court is divided into appellate, trial and land and titles courts. District and village court judges are appointed by the Governor of American Samoa subject to approval by the Senate of American Samoa.[3] Since American Samoa is not part of a United States federal judicial district or circuit, there are no statutory provisions for appealing decisions of the High Court.

IV. Population

14. American Samoa's population is growing rapidly, at an annual rate of 2.64 per cent. According to the *World Fact Book* of July 1999, the population is estimated at 63,786. The annual birth rate is 26.53 births/1,000 population and the annual death rate 4.04 deaths/1,000 population. The annual net migration rate is 3.92 migrants/1,000 population. The sex ratio is 1.02 males/female. Life expectancy is 75.46 years with male life expectancy at 71.23 years and female life expectancy at 79.95 years. The median age is 21 years.[3]

15. Ethnically, the population breaks down into 89 per cent Samoan (Polynesian), 2 per cent Caucasian, 4 per cent Tongan and 5 per cent other groups. Fifty per cent of American Samoans belong to the Christian Congregationalist Church, 20 per cent are Roman

Catholic and 30 per cent are Protestant and other denominations. The population speaks Samoan which is closely related to Hawaiian and other Polynesian languages, and English.[2] Most people are bilingual. The literacy rate is 97 per cent.

16. Rapid population growth places a strain on the public infrastructure and on the ability of the Government of American Samoa to provide necessary services. In his State of the Territory address delivered in January 2000, the Governor of American Samoa announced the establishment of a "Population Growth Task Force" to examine the social and environmental issues associated with the Territory's rapid population growth and make recommendations for action. In his estimate, the population would reach 100,000 in 15 years and 170,000 in 40 years.[5]

17. According to the Economic Report of the Bank of Hawaii (1997), some of the population increase is attributable to migration from Samoa, particularly as living standards in American Samoa are higher those that of most of its neighbours.

V. Economic conditions

18. As explained by the 1997 Economic Report of the Bank of Hawaii: "Reliable economic information on American Samoa is scarce and often dated. In recent years, the American Samoan Government has attempted to put together statistics on the economy and labour force, but what is published is available often two or three years after the close of the calendar year. The information vacuum makes analysis of the American Samoan economy incomplete and, by necessity, more qualitative than quantitative."

19. The Economic Report further states: "One important source of information on the American Samoan economy is a periodic report by the United States Department of Labor Employment Standards Administration, which studies the economy in relation to wage and work rules applicable in United States territories. Occasionally, other United States government agencies linked to the Department of the Interior and the General Accounting Office also report on the territory. The most detailed information becomes available only after each population census."

A. General

20. Economic activity is strongly linked to the United States, with which American Samoa conducts the great bulk of its trade. Tuna fishing and tuna processing plants are the backbone of the private sector, with canned tuna as the primary export. Attempts by the Government to develop a larger and broader economy are constrained by American Samoa's remote location, limited transportation and devastating hurricanes. Tourism, a developing sector, is likely to be held back by the current financial difficulties in East Asia.[2]

21. Prospects for agricultural development are limited owing to the small amount of land suitable for cultivation. About 93 per cent of American Samoa's economy is based on United States federal expenditures and the canning industry, while the remaining 7 per cent stems from a small tourism industry and a few businesses. Local businesses are small and sell exclusively to the local market.[6] They face high costs owing to limited access to capital and the need to import most goods and raw materials. They are also vulnerable to competition from neighbouring islands with lower wage levels and from larger, more efficient businesses in the United States.[4]

22. The largest trading partner of American Samoa remains the United States, followed by New Zealand, Australia and Fiji. Imports are mainly food (22 per cent) and petroleum products (17 per cent), machine parts, building materials, textiles and clothing; canned tuna accounts for 97 per cent of exports.[6]

B. Public service

23. The main business of the Government is the management and distribution of federal income and capital subsidies. Civil service workers enjoy the highest wage rates in the Territory, making government work by far the most attractive job option for American Samoans. Many American Samoans with advanced degrees from the United States return to the Territory to work for the Government. A number of expatriates also work for the Government, especially in areas such as financial services where local expertise is scarce.

24. The American Samoan Government is highly centralized and performs all basic government functions. It is also the largest employer.[3] At the end of 1998, the number of employees in the Government of

American Samoa reached 4,788. The Government also manages power, water and sewer systems through the American Samoa Power Authority (ASPA).

25. The traditional communal system provides the basis for a strong Government whereby leaders are responsible not only for preserving the social order but also for the economic welfare of the extended family. The United States federal Government underwrites most of the cost of preserving this system. This affiliation allows the United States to have access to and use of the territory for defence and other purposes.[3]

C. Public finance

26. In 1998, the United States Department of the Treasury reported higher revenue collection from local taxes, while the United States Department of Commerce announced a trade surplus of $167.9 million for the same year. The surplus was $15 million higher than in 1997.[7] In order to improve further the Government's tax collecting system, at the beginning of 1999 the United States Department of the Interior provided the Government with a $400,000 grant.[8]

27. When the United States House of Representatives approved the 1999 budget for American Samoa at $23 million for the operations of its Government and $10.1 million for the construction of capital improvement projects (the same as in fiscal year 1998), the United States Senate Committee on Appropriations approved the level of funding for capital improvement projects, but reduced the funding for operations of the territorial Government by $230,000. At the same time, the Senate Committee restricted the use of $2 million of the capital improvement projects money pending resolution of the debts owed to Hawaiian hospitals by American Samoa and the restructuring of the off-island medical referral programme.[9]

28. A press release issued by American Samoa's Congressman Faleomavaega on 16 February 2000, states that "American Samoa remains the only United States Territory that receives direct financial aid from the federal Government to operate its budget". The 2000 budget proposal before the United States Congress includes a provision for continuing to provide $23.1 million for local government operations in American Samoa and another $10.1 million for capital improvement projects "which should continue to address the large backlog of projects in this area". This funding remains level with that of the past several years.

29. A financial audit report prepared by Deloitte and Touche in 1998 but released only in January 2000 points out that the system of financial accounting and reporting in operation for the Territory in the year ended 30 September 1996 was inadequate.[10] This report and its implication that the actual fiscal situation of the Government in 1997 and 1998 is not known, have caused concern and raised questions in the Fono.

30. In its detailed assessment of the American Samoa Government's financial management in the early 1990s, the United States Congress's General Accounting Office called for more stringent adherence to the regulations applying to the receipt of United States government funds. Since then, the American Samoa Government has taken steps to strengthen its accounting and other financial management methods and exercised stronger control over expense control.

31. On 10 January 2000 in his State of the Territory address delivered before the Fono,[11] Governor Tauese Sunia said that "1999 was a year of unprecedented government activity, a sign of increased growth". However, an increase in the cost of running the government and a decrease in revenues collected were a cause for concern. The Governor stated that he would like to "hold expenses and institute some (additional) means of taxation", whereas the Speaker would like to see more focus on tax collection.

32. For 2000, the American Samoan Government's Budget Office is projecting local revenues of from $53 million to $54 million. However, although the Budget Office had projected local revenues of $53.3 million for 1999, the Treasury collected only $46.7 million.

33. According to a report prepared by the Legislative Financial Office and distributed to the members of the Fono, the American Samoan Government is $7.4 million behind in payroll deductions to the banks, insurance firms, the Retirement Fund, American Samoan Cablevision and a few other entities.[12] The Treasurer is seeking the House's support for legislation that will authorize the use of an anticipated $18.6 million tobacco settlement as a loan to meet some of the more pressing obligations and debts.

34. In 1999, the United States Secretary of the Interior established the American Samoa Economic Advisory Commission to make recommendations to the

Federal Government, the United States Congress and the American Samoan Government, on steps to improve the economy in American Samoa. The Commission, which held its first meeting in Washington, D.C., in March 1999, is to continue meeting through 2000 to formulate a practical plan that will improve the economy of American Samoa.[13]

35. In January 2000, the Head of the Department of the Interior, Office of Insular Affairs (Mr. Danny Aranza), speaking on behalf of the Insular Deputy Secretary, informed Fono members and the Chamber of Commerce that a newly formed Inter-Agency Group on Insular Areas had been established to meet with territorial Governors. The Group's goal was to encourage private sector growth in the territories. Forty federal agencies represented in the Group were also to be asked to assist the Territories.[14]

D. Land

36. American Samoa has a traditional Polynesian economy in which more than 90 per cent of the land is communally owned. Land in American Samoa is not simply another resource but the central element of Samoan society. However, today American Samoa is no longer dependent on land in the same way that it once was. Only 20 per cent of the territory's total land area is developed, supporting an urban economy that has been established over the last four decades.[3]

37. According to a 1995 United States Department of Labor economic report,[3] 7,248 acres (just under 15 per cent) were registered with the Territorial Registrar in 1992. Unregistered land is considered communal or is otherwise unavailable for use because it is inaccessible and unimproved. Registered lands are classified by ownership into five categories:

(a) Freehold (1,014 acres or 14 per cent of the 7,238 acres): most of this was acquired before 1900 under German colonial rule. Most of this land is located in the urban areas around the Pago Pago Harbour, the Tafuna plain and the village of Leone;

(b) Government-owned (1,651 acres or 22.8 per cent): this category includes land acquired by eminent domain (the power of the State to take over land for public use) and land freely conveyed to the American Samoan Government by the Government of the United States or other owners. This land provides and supports public infrastructure;

(c) Church-owned (984 acres or 13.6 per cent): the leasing of church land to parties other than the American Samoan Government requires approval of the Governor of American Samoa. Transfer of title to this land to parties other than American Samoans is against the law;

(d) Individually owned (1,779 acres or 24.5 per cent): this is land that has been acquired by individuals through court action since 1900, through the transfer of communal land to individuals with the consent of the Governor or through other legal means that meet all legal provisions for transfer;

(e) Communal or native (1,820 acres or 25.1 per cent of the total): this land is subject to the authority of the *matai* so as to allow the use of the land by them, and such use may require the consent of the Governor.

38. In March 1999, the Fono approved a bill prohibiting nationals from neighbouring Samoa from acquiring land in the Territory in the future. The bill also changed the definition of "native American Samoans", for purposes of land ownership, to be "full-blooded American Samoans from the main islands of American Samoa". This legislation was reportedly adopted to limit land ownership because American Samoans are prohibited from owning land in neighbouring Samoa.[15]

E. Fisheries

1. Domestic fishing tradition

39. *Fa'a Samoa*, the traditional Samoan way of life, exerts a strong influence in American Samoa on when and why people fish, how they distribute their catch and the meaning of fish within the society. These resources move through a complex exchange system that supports the *aiga* (the extended family) as well as the *matai* (the hierarchy of chiefs) and village ministers. Fish are also a significant component during customary exchange. An American Samoan consumes about 148 pounds of seafood yearly (the highest consumption of seafood in the United States).[16]

40. A decline in shoreline fisheries has resulted in increasing dependence by American Samoans on pelagic fisheries to sustain domestic fishing effort and cultural obligations. Today, it is estimated that American Samoa's domestic commercial fishing fleet

consists of 47 small catamarans equipped for longlining. New fishery development projects funded by the United States Administration for Native Americans (ANA) aim to revitalize American Samoa's fishing heritage. Several non-profit organizations have undertaken projects to provide boats and train young American Samoan fishermen that will target fish for fresh export as well as develop seafood processing enterprises for the pelagic fish.

41. These initiatives are complemented by an amendment proposed by the Western Pacific Fishery Management Council to the Pelagic Fisheries Management. It aims to restrict vessels larger than 50 feet from fishing within 50 nautical miles of most of the American Samoan islands as well as to safeguard American Samoan fishing communities by encouraging the domestic harvest of pelagic fish. A revised amendment is pending approval by the National Marine Fisheries Service (NMFS) and the Secretary of Commerce.[17]

2. Fishing industry

42. The harbour at Pago Pago gives the Territory a natural advantage with respect to landing fish for processing. This harbour, together with the special provisions of United States law that protect the industry, forms the basis of American Samoa's largest private industry which is now more than 40 years old. The Territory is exempt from the Nicholson Act, which prohibits foreign ships from landing their catches in United States ports. The parent companies of American Samoa's fish processing plants enjoy special tax benefits and reduced labour costs. The two canneries employ some 4,000 workers, most of whom are from independent Samoa, but all pay taxes to the American Samoan Government.[4]

43. American Samoa's tuna processing industry is the fourth largest in the world. Last available statistics indicate that, in 1994, American Samoa shipped 211.6 million pounds of canned tuna worth $309.5 million to the United States (see A/AC.109/2023, paras. 16-17).

F. Other industrial activities

44. American Samoa's balance of trade reflects the dominance of the tuna canneries and annual changes are heavily influenced by changes in prices and timing of export shipments. Total estimated imports into American Samoa in 1996 were valued at $407.7 million versus total exports of $312.8 million.[17] Other industrial activities in American Samoa are mostly service-oriented. There are a number of small factories processing soap, perfume and alcohol. High costs and distance to markets restrict the ability of local businesses to export. They remain vulnerable to competition from those neighbouring islands with lower wage levels, and from larger, more efficient business in the United States. The disadvantages of a remote location, lack of skilled manpower, limited infrastructure and the lack of significant comparative advantages over other Pacific sites have yet to be overcome.[16]

45. According to the 1999 report from the United States Department of the Interior, Office of Insular Affairs, three local investors had shown an interest in establishing food processing plants in the Territory. Of the three proposals, the sausage plant is already under way in developing its product to meet the local demand. The proposal for fried and smoked seafood products is still being reviewed and developed. A grant proposal for the third plant, a staple foods plant, was submitted to the American Native Administration (ANA) in 1999.[17]

46. The American Samoan Government continues to promote its "micro-industries" concept which focuses on exports and import substitution.[17] Attracting new industries and creating employment opportunities continued to be top priorities for the territorial Government. At the same time, in 1998, the Government of American Samoa declared its intention to draft legislation aimed at controlling and limiting foreign-owned businesses in the Territory. Under the current laws, two foreigners can set up a business corporation with one local partner. However, in many cases, according to the Government, the local partner simply collects a retainer fee, while the running of the business is left to foreigners.[18]

47. Governor Tauese noted in his State of the Territory address on 11 January 2000, that, according to the Department of Commerce, the construction industry was the fastest growing industry locally. He states that this was evident in terms of an annual 76 per cent increase in start-ups of new construction companies between fiscal years 1997 and 1999. In 1996, there were 60 locally licensed construction companies. Local contractors were awarded 68 per cent of the projects for a total value of $5.3 million. Off-

island contractors were awarded 28 per cent of the projects. The Department of Public Works had designed road projects to be small enough "to encourage the local construction industry to participate fully in the construction programme".

G. Tourism

48. Despite the Government's efforts to encourage tourism, the industry remains relatively small. According to information made available, tourist arrivals totalled 5,800 in 1995, a decline of about 1,500 from the 1992 figure and about half the visitor level in 1991. More recent statistics are not available.[17]

49. American Samoa has little tourist infrastructure, with only one hotel (80 per cent government-owned) and a total of 260 hotel/motel rooms in Tutuila and Mau'a. Proposals for additional hotel rooms have been put forward, but have not received the necessary approvals or financing for construction. In addition to its need for upgraded tourist facilities, the tourism industry needs increased promotion, improved skill training and increased international air travel services.[17]

50. According to the Bank of Hawaii 1997 Economic Report, the Rainmaker (American Samoa's only hotel), has attempted to privatize or to be sold in the past. Plans to revitalize the hotel have been temporarily put on hold and any plans to proceed with the privatization are to be addressed and resolved in the near future.[17]

51. Development of ecotourism is one of the most promising growth areas and it has community support. A major development in this direction was the establishment of the National Park of American Samoa in 1993. Except for American Memorial Park in Saipan, this is the only national park in which the federal Government does not own the land but leases it for 50 years from the American Samoa Government on behalf of the eight villages in the park. The park's 8,000 acres are spread over three islands and include 1,000 acres of the finest coral reef in the United States national park system.[17]

H. Transport and communications

1. Roadways

52. There are approximately 150 kilometres of paved roads and 200 kilometres of secondary roads in American Samoa. According to the Governor, in 1996 the number of registered vehicles was 6,200.

53. There is non-scheduled bus service. American Samoa has maintained its traditional family-owned bussing business. "Aiga" buses connect all areas with Pago Pago.

54. The roads designated as federal highways are eligible for improvement using United States federal highway aid funds, but other roadways are the responsibility of the territorial Department of Public Works (see A/AC.109/2024/Add.1, paras. 38-40). The highway system in American Samoa is generally in poor shape owing to the effect of hurricanes, the age of the roads, inadequate maintenance and past road construction standards that did not meet current heavy traffic loads.

55. The last five-year capital improvement programme had budgeted $1.1 million for fiscal year 1998 for the village rural development programme, with lesser amounts for the following years, totalling $2.16 million for the period from 1998 to 2002.[5]

2. Seaports

56. Pago Pago harbour is an all-weather deep-draught harbour. The main dock is 1,000 feet long, handling ships of up to a 32-foot draught. Pago Pago harbour provides the full complement of equipment and facilities and has a ship repair facility with a 3,000-ton marine railway. The port provides full port facilities, containerized cargo holding, warehousing, trans-shipment operations and tugboat services.[19]

57. However, the general condition of the port continues to deteriorate as a result of an inadequate maintenance budget. At present, capital improvement project funds are being sought to resurface the container yard and to develop an off-site container staging area. A port master plan, to be developed by the Port Administration, will lay the foundation for upgrading the port facilities to international standards. The Port Administration has improved the security and overall safety of the port facilities through the

application of an identification badge system and a vehicle registration programme.[17]

58. Several shipping companies provide regular service to Pago Pago from Asia, other South Pacific ports and the United States. There is a daily inter-island cargo service and a regular ferry service between American Samoa and Samoa. Swains Island is accessible only by boat. Rose Atoll can be visited only by permit since it is a National Wildlife Refuge (see A/AC.109/2023, para. 22).

3. Airports

59. Pago Pago International Airport is owned and operated by the territorial Government under the Department of Port Administration. It is well maintained, but needs a runway extension to allow fully loaded cargo and passenger aircraft to land and take off. The Federal Aviation Administration has already approved funding for extending the runway an additional 1,000 feet.[5] An environmental assessment of adjacent lagoons is being conducted prior to the commencement of the runway project.[17] The airport has a tower with a Federal Aviation Authority (FAA) controller. Several other airport improvement projects are being carried out. The bulk of the projects are being funded through the Passenger Facility Charge (PFC).[17]

60. Pago Pago International Airport is regularly served by a number of airlines that link American Samoa with Hawaii and the United States mainland and other countries in the South Pacific. Hawaiian Air provides direct air service to Honolulu. Polynesian Airlines, Air New Zealand and Air Pacific provide regional air service to New Zealand, Australia, Fiji, Vanuatu, Tonga, New Caledonia, Tahiti and the Cook Islands.[19]

61. There are two smaller airstrips, on the islands of Ofu and Tau. Both have terminal buildings to handle passengers and cargo but they can handle only light aircraft (see A/AC.109/2044/Add.1, para. 48).

4. Communications

62. American Samoa, through the overseas communications satellite corporate link, has direct telephone dialling to most countries. There is a choice of mobile telephone service providers. Internet services to the World Wide Web is provided by the Office of Communications, American Samoa Government.[19]

63. There are several weekly newspapers in the Territory in both the English and the Samoan languages. There is also a daily newspaper, the *Samoa News*, in English, which also publishes a section in the Samoan language. Television, including programmes from the United States, and radio are also available.

I. Water, sanitation system and utilities

64. The American Samoa Power Authority (ASPA) which is Government-owned, provides water, waste-water, solid waste and electric services to customers on five of the seven islands.

1. Water

65. The ASPA Water Division is responsible for providing safe drinking water to 90 per cent of the territory[19] with the remaining part being serviced by outer-village systems. It is responsible for restoring, maintaining and protecting the water supply during natural and man-made hazards. The daily capacity of the water system is 8.0 million gallons per day from high-quality groundwater and surface sources. Water rates are $1.25 per 1,000 gallons.

2. Electricity/power

66. The ASPA generates, transmits and distributes electric power throughout American Samoa (see A/AC.109/2044/Add.1, para. 35). The ASPA has a total of 31 megawatts of capacity. The rate (1996-1997) was $0.1371 per kilowatt hour plus a $0.00720 per kilowatt hour fuel surcharge based on the changes in the cost of diesel to the territory.[19]

67. The electric system, power plants and power lines have been reconstructed to withstand hazards such as cyclones, earthquake and tsunami. Overhead power lines are also being rebuilt to Rural Utility Service (RUS) standards so as to withstand cyclones with wind speeds up to 150 miles per hour.[17]

3. Sanitation

68. The solid waste division of ASPA is responsible for management of the solid waste contract, management and maintenance of the landfills, collection of solid waste, solid waste transfer stations, and collection of scrap metal.[17]

69. The Waste-Water Division of the ASPA operates and maintains the two main sewer systems and satellite systems in Aunuu and Faga'itua. It maintains the lift stations and treatment plants, the sewer system pipes, standby generators and septic tanks.[17]

J. Financial institutions and other businesses

70. The Bank of Hawaii and Amerika Samoa Bank provide full international banking services with correspondent banks in the United States and the Pacific region. Automated teller machines service is also provided at the respective branches.[19]

71. Legal services for all requirements of business are provided by some 20 resident lawyers in 12 firms in active practice. Insurance is provided worldwide by three local companies, two agency offices and one local general insurance broker. These companies provide all insurance requirements necessary for any type of business enterprise located within the Territory.

72. According to the Department of Commerce, Office of Tourism, business is growing in Samoa. There are over 1,900 licensed businesses. Besides the two industry giants Van Camp and Star Kist, businesses include auto dealerships, communications, restaurants, import/export, warehouses, wholesalers, airlines, computers, clothing, produce, catering, construction, heavy equipment, rentals, theatres and handicrafts.[19]

VI. Social conditions

A. Labour

73. The territory is characterized by a low per capita income and a significant unemployment rate (United States, April 1999 submission). After years of experiencing a high unemployment rate (over 16 per cent in 1993), the American Samoa Government now states that unemployment is well below 10 per cent.[11] According to the Governor, 70 per cent of the workforce in the private sector consists of imported workers from outside American Samoa.

74. American Samoa is one of the two United States Territories in which employers are allowed to pay workers less than the mainland minimum wage to ensure compatibility with the prevailing cost of living. Wages in the territory are set not by federal law but by recommendation of a special United States Department of Labor committee that reviews economic conditions every two years and establishes minimum wages by industry. In 1999, minimum wages in American Samoa ranged from $2.45 per hour for the miscellaneous category to $3.87 for stevedoring, lighterage and maritime shipping agencies.[20] Approximately 40 per cent of the labour force is from Samoa. Nationals from Tonga, the Republic of Korea, Japan, China and the United States also work in the Territory. The high proportion of foreign labour comes about through the need to fill the vacuum left by the many young American Samoans who emigrate to Hawaii and the United States mainland in search of job opportunities. Their place in the Territory is often filled by non-nationals, mostly from Samoa (see A/AC.109/2023, para. 31).

B. Immigration

75. American Samoa has its own immigration laws. In 1985, the territorial Government set quotas to regulate the number of foreigners entering the Territory annually to work. The quotas allow the admission of 1,000 persons from Samoa and 400 from other countries. Only American Samoans, United States citizens and nationals, and licensed companies can sponsor foreign workers (see A/AC.109/2023, paras. 32-33).

76. Early in 1997, American Samoa's Governor announced an amnesty for illegal immigrants who had arrived in the Territory before 1 January 1997 if they applied for permanent resident status. In September 1997, over 2,300 residents participated in the Governor's amnesty programme, of whom a majority (1,820) were from neighbouring Samoa. As reported in the press, Governor Tauese instructed the Attorney-General to strictly enforce the immigration laws, which provide that 30-day permits can be renewed only once. After that, the visitor is mandated to leave the Territory.[21] The Governor is also seeking Fono approval of legislation upholding a five-year alien registration receipt card for alien spouses of United States nationals, permanent residents and children of United States nationals born in foreign countries. Currently, alien spouses of United States nationals must obtain a certificate of registration every year.

C. Public health

77. The main hospital in the Territory (see A/AC.109/2080, paras. 26-28), the Lyndon Baines Johnson Tropical Medical Centre, has 140 beds and a staff of 25 physicians. Medical, dental and pharmaceutical services are available 24 hours a day at minimal cost to residents and visitors. For serious cases, off-island treatment, including hospitalization in Guam, Hawaii or the United States mainland, is provided free of charge.

78. As was mentioned above, a significant part of the Government's indebtedness is related to costs associated with off-island medical referrals. In December 1997, medical officials in the United States-affiliated Pacific islands, including American Samoa, received access to a new Internet service at the Tripler Regional Medical Centre in Honolulu, Hawaii, to facilitate medical referrals and patient consultations. The secure web site is open to physicians and other medical personnel in the United States-administered Territories of American Samoa and Guam.[22]

79. Life expectancy in American Samoa is about 75 years. The infant mortality rate for 1996 was 15.2 per 1,000. The crude birth rate for the same year was 27.8, down from 38.1 in 1992. Heart disease, cancer, cerebrovascular disease and traumas have been the leading causes of death.[6]

80. In view of the problems between the present territorial administration and the Fono regarding the establishment of the American Samoa Hospital Authority, as reported in a previous working paper (see A/AC.109/2080, paras. 26-27), in 1997 the Governor had established a five-member hospital governing board to manage the medical centre in order to release funds frozen by the federal Government until American Samoa established a hospital authority with rate-setting authorization. The Board has been very active and maintains close supervision and management oversight of the hospital.[17] The United States Health Care Financing Administration provides about $3 million a year to the Lyndon Baines Johnson Tropical Medical Centre (about 16 per cent of all funding), and most of those funds are used to purchase most of the medicine and medical supplies used at the Centre.[23]

81. In September 1997, a dental health programme was launched in American Samoa's schools to combat tooth decay. A 1995 survey found that the Territory had the highest incidence of tooth decay among 12-year-olds in the South Pacific region. The newly established dental health programme covers all public and private kindergartens and elementary schools.[24]

82. According to a press release from the office of Congressman Faleomavaega dated 15 April 1999, the American Samoan Government has been awarded a grant to provide health coverage to uninsured children through the national Children's Health Insurance Program (CHIP). The American Samoa Government is expected to receive in excess of $750,000 over the next three years. Nationally, the programme provides health care to 2.5 million children who previously did not have health insurance.

D. Environment

83. To help mitigate the effects of human use, the American Samoa Coastal Management Programme was established for the coastal zone, which includes all land (126 miles of coast) and sea within three miles of the shoreline. The key legislation is the American Samoa Coastal Management Act of 1990. The American Samoa Department of Commerce oversees all construction or earth-moving activities on the island and tackles concerns of fishery habitat loss, coastal hazards, including hurricanes, flooding and erosion, marine debris and solid waste. The programme covers the Fagatele Bay National Marine Sanctuary, mangrove wetlands, the lowland rainforest, the uplands rainforest national park and the coral reefs. Coastal managers strive to include traditional leaders in the management process as 90 per cent of the land falls under the land tenure system. Eight local government agencies review major land activities.[19]

84. Under the Oil Pollution Act Fund of the National Oceanic and Atmospheric Administration (NOAA), an additional $5.2 million was awarded in September,[25] for the removal of longliner vessels from the inner harbour in American Samoa. These funds will be used in consultation with the Coast Guard and the American Samoan Government to fully remove the vessels. As part of the ongoing clean-up, a salvage tugboat had docked in American Samoa and would take some two months to complete the salvage operation.[16]

E. Crime and crime prevention

85. Recent crime statistics are not yet available. According to the local media, in general the most common offences are disorderly conduct, assault, burglary, larceny, drunken driving, property damage and sex-related offences. In 1998, Governor Tauese Sunia established the Office of Territorial and International Criminal Intelligence and Drug Enforcement, which was to operate independently of the regular police.

86. In February 1997, a new anti-drug bill introduced in American Samoa provided for tougher penalties for drug-related crimes. The Office of Territorial and International Criminal Intelligence and Drug Enforcement has been developing close cooperation with Interpol, the Federal Bureau of Investigation, United States Customs and other federal agencies with a view to improving its readiness to combat corruption in government and drug trafficking. In a related development, the federal Office of Community-Oriented Policing Services, administered by the United States Department of Justice, announced in August 1997 a grant of $563,625 to the American Samoa Department of Public Safety. The grant can be used to pay 75 per cent of the cost of hiring additional officers for a three-year period.[26] In January 1999, the Department of Public Safety enrolled 81 police trainees for the Twenty-sixth Police Academy.[7]

F. Housing

87. During his State of the Territory address in January, Governor Tauese stated that the Department of Public Works (DPW) reviews an average of five proposals for licences to build private homes, private schools and churches. However, as no recent statistics are available, according to the 1996 American Samoan Government Statistical Digest (the last published), the DPW approved 158 "new structures" in 1995. In addition to these, over 560 other building permits were issued for repairs and other projects.[11] In 1994, a total of 674 land-use permits were issued. There were 187 permits for new structures. The total estimated value of all construction excluding government projects was $14 million.[27]

G. Education

88. The 22 elementary schools and 6 high schools are in generally good condition, considering the fact that most of the existing buildings are of the *fale* (open house) style. There is a growing need for classrooms owing to the high rate of population increase. School buses, too, are in short supply and new buses need to be acquired on a regular basis.[17]

89. The educational system in American Samoa is broadly based on the United States pattern of eight years' attendance in elementary school and four years' enrolment in high school. In the academic year 1998/99, enrolment in public schools alone reached 16,104 students.

90. The American Samoa Community College, established in 1970, offers two-year degree courses in arts and sciences and programmes offering certificates of proficiency in vocational and clerical skills, business and nursing. In the academic year 1998/99, the College's enrolment was about 770 students.[28]

91. In June 1997, the United States Department of Education's Literacy Challenge Fund awarded American Samoa a grant of $240,930 to improve computer facilities at schools. The grant will be used to provide students with compact disk read-only memory (CD-ROM) capability and worldwide Internet access.

VII. Participation in international organizations and other arrangements

92. American Samoa is a member of several regional organizations, including the South Pacific Commission, the Pacific Basin Development Council, the Pacific Tuna Development Foundation, the Pacific Islands Association, the Asian-South Pacific Bureau of Adult Education, the Pacific Asia Travel Association, the South Pacific Regional Environment Programme and the Council of Pacific Arts. It also belongs to such United States organizations as the National and Western Governors' Conferences. The Government of American Samoa has signed memoranda of understanding with the Governments of Samoa and Tonga on mutual economic cooperation and has sent trade missions to a number of countries in the Pacific region.

93. In August 1991, American Samoa, together with two other Territories administered by the United States, Guam and the United States Virgin Islands, established the Alliance of Dependent Territories, an organization that seeks to promote friendly relations and economic and technical cooperation among its members. The alliance will also endeavour to obtain observer status in the United Nations General Assembly.

94. American Samoa participated as an observer in the Preparatory Committee for the Global Conference on the Sustainable Development of Small Island Developing States, as well as in the Conference itself, which was held in Barbados from 25 April to 6 May 1994.

95. American Samoa belongs to various regional bodies of the United Nations system, including the World Health Organization (WHO), the Regional Office for the Western Pacific and the WHO Pacific Regional Centre for the Promotion of Environmental Planning and Applied Studies. The Territory has been an associate member of the Economic and Social Commission for Asia and the Pacific since 1988 (see A/AC.109/2023, paras. 40-43).

VIII. Deliberations at the United Nations on the status of the Territory

96. In a statement made in 1993, the Lieutenant-Governor of American Samoa indicated that American Samoa preferred to remain a Territory of the United States (see A/AC.109/1159, paras. 25-31). This position remains unchanged. In February 1999, the United States Government appointed former Governor of Hawaii John Waihee as head of an economic advisory commission established to suggest policies for expansion and diversification of the Territory. Its primary task was to develop a detailed plan that would bring self-sufficiency to American Samoa.[29]

97. During the deliberations of the Fourth Committee at the fifty-fourth session of the General Assembly, on 4 October 1999, the Rapporteur of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples stated that the Special Committee had included American Samoa in its consideration of small island Territories.

98. In his address to the Fourth Committee of the General Assembly at the United Nations, on 6 October 1999, the United States representative said: "Although we continue to believe that the standards applied in resolutions 1514 (XV) (of 14 December 1960) and 1541 (XV) (of 15 December 1960) are too narrow, the United States offers its full support to those countries choosing independence and is proud to work with them on an equal and sovereign basis. For territories that do not choose independence, however, the United States fully supports the right of the people in those Non-Self-Governing Territories to a full measure of self-government, if that is what they choose. The United States reaffirms its respect for the right of self-determination, which, we note, includes the options of integration and free association, but is not limited by them."

99. On 6 December 1999, the General Assembly adopted without a vote resolutions 54/90 A and B, a consolidated resolution on 11 Non-Self-Governing Territories, section I of Assembly resolution 54/90 B being devoted specifically to American Samoa (see A/54/PV.71).

Notes

[1] The information contained in the present working paper was derived from published sources.

[2] Central Intelligence Agency, *World Fact Book 1999*.

[3] Bank of Hawaii, 1997 Economic Report: American Samoa.

[4] Patricia Larkin and Gary Chung, *Constitutions of Dependencies and Special Sovereignties* (Dobbs Ferry, New York, Oceana Publications, February 1986).

[5] *Samoa News*, 13 January 2000.

[6] Submission by the United States of America on American Samoa, April 1999.

[7] *Samoa News*, 15 January 1999.

[8] Ibid., 9 March 1999.

[9] Ibid., 24 July 1998.

[10] Ibid., 14 January 2000.

[11] Ibid., 12 January 2000.

[12] Ibid., 18 February 2000.

[13] Press release, Congressman Faleomavaega, 25 March 1999.

[14] *Samoa News*, 1 February 2000.

[15] Agence-France Presse, 31 March 1999 (NEWSEDGE).

[16] *Samoa News*, 16 February 2000.

[17] United States Department of the Interior/Office of Insular Affairs Report, 1999.

[18] *Samoa News*, 16 February 2000.

[19] Samoanet.com (Department of Commerce and of Tourism, 1996-1997).

[20] Press release, Congressman Faleomavaega, 7 June 1999.

[21] *Samoa News*, 27 August 1998.

[22] Pacific Islands Development project, 24 December 1997.

[23] *Samoa News*, 2 and 13 September 1997.

[24] *PACNEWS*, 28 September 1997.

[25] Press release, Congressman Faleomavaega, 17 September 1999.

[26] *Samoa News*, 26 August 1997.

[27] *American Samoa Statistical Digest*, 1995, p. 91.

[28] *Samoa News*, 20 April 1999.

[29] Reuters, 12 February 1999.

United Nations A/AC.109/2000/4

General Assembly

Distr.: General
25 April 2000
English
Original: English/French

Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

New Caledonia

Working paper prepared by the Secretariat

Contents

		Paragraphs	Page
I.	General	1–3	2
II.	Political situation	4–26	2
	A. Background	4–7	2
	B. The new governmental structure	8–13	4
	C. Recent developments	14–27	4
III.	Economic data and developments	28–37	7
	A. General	28	7
	B. Mineral resources	29–33	7
	C. Other economic sectors	34–36	8
	D. Labour	37	9
IV.	Consideration of the question by the United Nations	38–50	9
	A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples	38–39	9
	B. Special Political and Decolonization Committee (Fourth Committee)	40–45	9
	C. General Assembly	46–50	10

00-40321 (E) 090500 090500

I. General

1. New Caledonia[1] is located in the Pacific Ocean, about 1,500 kilometres east of Australia and 1,700 kilometres north of New Zealand. It comprises one large island, known as Grande Terre, and smaller islands known as the Loyalty Islands (Ouvéa, Maré, Lifou and Tiga), the Bélap Archipelago, the Isle of Pines and Huon Islands. There are also several uninhabited islands to the north of the Loyalty Islands. The area of Grande Terre is 16,750 square kilometres, and that of the Territory is 19,103 square kilometres. Nouméa, the capital, is located in the south of Grande Terre. The Territory is divided into three provinces, South and North (on Grande Terre) and the Loyalty Islands.

2. According to the 1996 census, the population was 196,836, comprising indigenous Melanesians known as Kanaks (42.5 per cent); persons of European origin, mainly French (37.1 per cent); Wallisians (8.4 per cent); Polynesians (3.8 per cent); and others, mainly Indonesians and Vietnamese (8.2 per cent). The census also showed almost half the population to be under 25 years old. In January 1999, the estimated population was 206,001. The majority of the population (68 per cent) lives in the South Province, mainly around the greater Nouméa area, while 21 per cent live in the North Province and only 10.6 per cent in the Loyalty Islands. In 1996, the native Kanak population made up 77.9 per cent of the population of the North Province and 97.1 per cent of the population of the Islands, whereas it only made up 25.5 per cent of the population of the South Province. With respect to the Territory's second largest population, persons of European origin, 89 per cent of them live in the South Province. About 60 per cent of the population is Catholic, 30 per cent Protestant and 10 per cent profess other religions. The official language is French, and about 28 Melanesian-Polynesian dialects are spoken.

3. The Nouméa Accord (A/AC.109/2114, annex), signed in May 1998 between the Government of France, the pro-independence Front de libération nationale kanak socialiste (FLNKS) and the integrationist Rassemblement pour la Calédonie dans la République (RPCR), has fundamentally altered the political and administrative arrangements in New Caledonia. Under the terms of this Accord, the New Caledonian parties opted for a negotiated solution and progressive autonomy from France rather than an immediate referendum on political status. The transfer of powers from France began in 2000 and is to end in 15 to 20 years, when the Territory will opt for either full independence or a form of associated statehood. The political and legislative process which is under way and the new institutional arrangements in place in New Caledonia are described in section II below. The characteristics of New Caledonia's economy and employment as well as current efforts to implement a policy of redressing economic and social imbalances between the more prosperous South Province and the less developed North Province and Loyalty Islands are described in section III below.

II. Political situation

A. Background

4. The final article of the Preamble to the Nouméa Accord signed in May 1998 between RPCR, FLNKS and the Government of France states as follows:

> "The signatories to the Matignon Accord have therefore decided to work together towards a negotiated consensual solution, which they shall together submit to the inhabitants of New Caledonia for a decision.
>
> "This solution will define the political organization of New Caledonia and the arrangements for its emancipation over the next 20 years.
>
> "Its implementation will require a constitutional law, which the Government undertakes to draft with a view to its adoption by Parliament.
>
> "The full recognition of the Kanak identity involves clarifying customary law status and its relationship to the civil law status of persons under ordinary law, defining the place of customary structures in institutions, *inter alia*, by establishing a customary Senate, protecting and enhancing the Kanak cultural heritage, introducing new legal and financial mechanisms to meet the demands that have been expressed on the grounds of ties to the land, while promoting land development, and adopting identity symbols expressing the essential place of the Kanak

identity within the future community agreed upon.

"The institutions of New Caledonia shall carry out the new stage of the transition to sovereignty; some of the decisions of the Territorial Congress shall have the force of law, and an elected territorial executive shall prepare and implement them.

"During this period, indications shall be given of the progressive recognition of a citizenship of New Caledonia, which must reflect the common destiny chosen and which may become, at the end of the period, a nationality, should it be so decided.

"The electorate for elections to local assemblies in New Caledonia shall be restricted to persons who have been resident in the Territory for a certain period of time.

"In order to take into account the limited size of the labour market, provisions shall be made to promote access to local employment for persons who have been long-established residents of New Caledonia.

"The sharing of powers between the State and New Caledonia shall signify shared sovereignty. This shall be a gradual process. Some powers shall be transferred as soon as the new organization takes effect. Other powers shall be transferred according to a definite schedule, which the Congress may modify, in accordance with the principle of self-organization. The powers that have been transferred may not revert to the State, in accordance with the principle of the irreversibility of the new organization.

"Throughout the period of implementation of the new organization, New Caledonia shall receive State aid in the form of technical assistance and training and the funding necessary for the exercise of the powers transferred and for economic and social development.

"Commitments shall be applied to multi-year programmes. New Caledonia shall have a share in the capital or the functioning of the primary development tools in which the State is a participant.

"At the end of the 20-year period, the transfer of sovereign powers to New Caledonia, its access to the international status of full responsibility and the organization of citizenship by nationality shall be put to a vote of the populations concerned.

"Their approval would be equivalent to full sovereignty for New Caledonia".

5. On 6 July 1998, the French Parliament passed a constitutional reform by 827 votes to 31 that inserted two articles, 76 and 77, into the French Constitution. Article 76 provided that the people of New Caledonia would be called upon before 31 December 1998 to express their views on the provisions of the Nouméa Accord. Article 77 provided that, following approval of the Accord, a Constitution would be submitted to a vote in Parliament in order to enable New Caledonia to move forward on the basis of the Accord.

6. Prior to the referendum, the two major parties of New Caledonia, FLNKS and RPCR, both campaigned for approval of the Accord among their respective constituents. The Accord was ratified by New Caledonians in a referendum held on 8 November 1998. With 74 per cent of the electorate voting, 72 per cent voted in favour of the Accord.

7. Following the referendum, the Secretary of State for the Overseas Territories of the Government of France issued a communiqué pointing out that the Nouméa Accord provided for the renewal of relations between France and New Caledonia and would be translated into a draft organic law. This organic law and an ordinary law were presented in the French Parliament. The organic law codified the matters addressed in article 77 of the constitutional reform, namely, the powers that would be transferred to the newly created institutions in New Caledonia, the organization of those institutions, rules concerning New Caledonian citizenship and the electoral regime and conditions and deadlines by which New Caledonians would determine their accession to full sovereignty. The ordinary law dealt with other, mainly economic and social, matters covered in the Nouméa Accord. The French legislature ratified both laws on 19 March 1999.

B. The new governmental structure

8. The governmental structure created as a result of the entry into force of the above-mentioned organic law is set out below.

9. The Congress is the deliberative assembly of New Caledonia. It comprises 54 members, consisting of 7 from the Provincial Assembly of the Loyalty Islands, 15 from the Provincial Assembly of the North Province and 32 from the Provincial Assembly of the South Province. Members are elected for five years.

10. The Government is the executive of New Caledonia. It is elected by the Congress and is responsible to it. It is composed of between 5 and 11 members, the exact number to be fixed by Congress prior to the election of the Government. The Government prepares and executes the decisions of Congress. The Government names public and administrative officers, oversees the execution of public works, manages local resources, gives its opinion regarding projects that involve the mines in the Territory and prepares the codification of the Territory's laws.

11. The provincial assemblies are responsible for all matters relating to the province that are not directly attributed to the President of the Provincial Assembly. The President of the Provincial Assembly acts as the executive of the province and, as such, is responsible for the administration of the province and the management of public employment at the provincial level. Members of the Assembly are elected for five years.

12. The Economic and Social Council advises the Government on projects and possible laws that have an economic or social character. It comprises 28 representatives of professional, labour and cultural organizations, 2 members designated by the Customary Senate and 9 personalities that are representative of the economic, social and cultural life of New Caledonia designated by the Government on the advice of the provincial assemblies.

13. The customary councils are a parallel set of institutions in eight areas and are designed to accommodate the full political recognition of the Kanak identity. In addition, there is a Territory-wide Customary Senate, comprising 16 members, two selected by each customary council. The Customary Senate is represented in the Economic and Social Council, the Administrative Council, the Consultative Council on Mines and local development agencies. The Customary Senate and the councils are to be consulted by the executive and legislative organs of New Caledonia on matters that have to do directly with the Kanak identity.

C. Recent developments

14. Following the ratification of the Nouméa Accord by the people of New Caledonia and the codification of its provisions into French law as described in paragraphs 9 to 11 above, New Caledonia is no longer considered an overseas territory under article 74 of the Constitution. Instead, the Government of France describes it as a community sui generis which has institutions designed for it alone and to which certain powers of State will gradually be transferred and will be non-revocable. Accordingly, the establishment of new institutions has proceeded according to an agreed timetable.

15. On 9 May 1999, elections were held for the provincial assemblies and Congress. Both the campaign and the polling were conducted without incident, and 74.86 per cent of the electorate voted. A total of 8,738 people were not allowed to vote because they had not lived in New Caledonia for the requisite 10 years prior to the election. In the voting for the provincial assemblies, for a total of 74 seats RPCR obtained a majority in the South Province while FLNKS obtained a majority in the other two provinces. Of those voted into the provincial assemblies, 54 then became members of New Caledonia's Congress. Thus, RPCR obtained a relative majority of 24 seats in Congress, followed by FLNKS, which obtained 18 seats.[2] The Congress is presided over by RPCR Senator Mr. Simon Loueckhote.

16. Congress elected the Government of New Caledonia on 28 May 1999. Presided over by Mr. Jean Lèques (RPCR), Mayor of Nouméa, the Government has 11 members, six from RPCR, four from FLNKS and one from the Fédération des comités de coopération indépendantistes (FCCI), a dissident offshoot of FLNKS currently allied with RPCR. Speaking before the Congress of New Caledonia on 16 June 1999, the Secretary of State for the Overseas Territories delivered the following message from the French Prime Minister, Mr. Lionel Jospin:

"These institutions will have to carry out their responsibility fully in order to lead New Caledonia, as provided for in the Nouméa Accord, down the path of emancipation, development and sharing. The Government intends to fully respect the powers granted to New Caledonia. It is up to the Territory's executive branch and assemblies to take the decisions which it is free to take pursuant to the organic law. I extend to government officials and to the newly elected members of the Congress and the provincial assemblies my congratulations and best wishes. France is a partner to the Nouméa Accord and, with the other two signatories, is responsible for ensuring that it is respected in all its provisions throughout the process which has begun. I therefore propose to convene a meeting of the committee of signatories to the Accord, in Paris, before the end of the year and the first transfer of powers, in order to assess the implementation of the Accord and review the prospects for its application in 2000.

"Ladies and Gentlemen, you have been elected on different platforms and you do not share the same vision for the future of New Caledonia. The voters of New Caledonia, who voted for various candidates whom they wished to entrust with responsibility for the implementation of the Nouméa Accord, had overwhelmingly approved that Accord. Even for those who rejected it, it has now become law. The Nouméa Accord is a vote of confidence in the ability of the people of New Caledonia to build with France a more fraternal common future. That future will be different from the present. It must be able to better meet the needs expressed by the inhabitants of this country, in particular its many young people."

17. The Customary Senate, considered the guarantor of Kanak identity, was formally constituted on 27 August 1999 in the presence of a visiting delegation of representatives of Pacific States to the United Nations and another representing the South Pacific Forum's Ministerial Committee. The 16 new senators were sworn in by President Lèques and they elected as their first president High Chief André Théan-Hiouen, traditional leader of the Tarana area and representing the Hoot Ma Waap constituency, north of Nouméa.[3]

18. After a delay of several months, New Caledonia's Economic and Social Council was formally established on 2 February 2000. Headed by Mr. Bernard Paul (RPCR), the Council is composed of 39 members, of whom 28 represent professional organizations, labour unions and associations which reflect the economic, social and cultural life of New Caledonia.

19. As foreseen by the Nouméa Accord, the new institutions have begun to enact "laws of the country" (lois de pays), which have the full force of the law and can only be contested before the Constitutional Council. The first "law of the country", which was unanimously approved by Congress on 19 October 1999, renewed for two years the national health coverage for medical practitioners, dentists and nurses.[4] In November 1999, another "law of the country" was passed, this time to reinstate a general tax on services. The President of the Provincial Assembly of the Loyalty Islands (FLNKS) challenged the constitutionality of such a measure. On 27 January 2000, France's Constitutional Court declared the measure constitutional.

20. In the months following the elections of May 1999, press reports noted considerable friction between RPCR and FLNKS due to their differing interpretations of "collegiality" in government matters. The debate grew out of the absence of any precise definition of collegiality in organic law No. 99-209 of 19 March 1999, article 128 of which states simply that the Government is responsible collegially and jointly for matters within its competence. The debate was triggered by two things. On 28 May 1999, members of congress choose Mr. Léopold Jorédié, a member of the Fédération des comités de coordination indépendantistes (FCCI), for Vice-President, rather than Roch Wamytan, President of FLNKS and a signatory to the Nouméa Accord; this was judged contrary to the spirit of the Accord by part of the pro-independence camp. Following this controversial appointment, the FLNKS members of the Government chose to appeal to the administrative courts and lodged several appeals against congressional resolutions and Government decrees, particularly the decrees appointing the Secretary-General of the Government and his deputy.

21. The controversies over the concept of collegiality revealed the existence of diverging interpretations between the two main political parties in New Caledonia. Whereas FLNKS considered that

collegiality had to apply to the decision-taking system, RPCR President Jacques Lafleur, adopting the logic of the majority, interpreted the concept restrictively, stating on 20 October 1999 that the purpose of collegiality was to inform the minorities. The debate, which led the Secretary of State for the Overseas Territories, Mr. Jean-Jack Queyranne, to reaffirm that, in the spirit of the Nouméa Accord, the Government of New Caledonia must be a collegial body, highlighted the importance of the State's role in implementing the Accord, the State being perceived as the essential guarantor of the Nouméa process.

22. During 1999, RPCR and FLNKS also disagreed on the interpretation of eligibility to vote in future elections to the Congress, provincial assemblies and, ultimately, to vote on accession to full sovereignty. Whereas the amendment to article 76 of the Constitution had interpreted the Nouméa Accord to establish that any person domiciled in New Caledonia for 10 years could take part in these elections, regardless of the date of that person's arrival in the Territory, FLNKS considered this as contrary to the spirit of the Accord. FLNKS referred the matter to the President and Prime Minister of France, whereupon the Government introduced a draft constitutional bill to the National Assembly stipulating that the right to vote should be exercised by persons already on the electoral roll on 8 November 1998 and who, at the time, had been residents of New Caledonia for at least 10 years. The bill was introduced by the Secretary of State for the Overseas Territories, Mr. Jean-Jack Queyranne, and approved unanimously by the National Assembly on 10 June 1999.[5] The Senate approved the same bill on 12 October 1999.[6] President Chirac then called for a special session of the French Congress (a joint sitting of both the National Assembly and the Senate) to be held on 24 January 2000 to fully ratify this constitutional amendment.[7] However, owing to complications in another, unrelated, legislative matter which was to have been tabled during the same session, the scheduled session was postponed. FLNKS has reiterated that this is a key point of the Nouméa Accord and has requested that a new date be set for the session.[8]

23. Meanwhile, as set out by the Nouméa Accord, the French State has proceeded to transfer numerous powers to the Government of New Caledonia. The services and jurisdictions transferred as of 1 January 2000 are the following:

Imposition and allocation of taxes to benefit funds for the territorial collectivities, public establishments or public service agencies; imposition of taxes, provincial and community taxes;

Guiding principles of labour law, occupational training and labour inspection; access to local employment;

Work by foreign nationals;

Sanitary controls at borders;

Customary civil status: customary lands and "palavers"; delimitation of customary areas; modalities for designating the Customary Senate and customary councils;

Foreign trade; import regulations;

Regulation of direct foreign investment;

External postal and telecommunications services;

Navigation and external shipping services; registration of ships;

External air services, except the air service between New Caledonia and other points of the territory of the French Republic;

Exploration, exploitation, management and conservation of the resources of New Caledonia's exclusive economic zone;

Regulations concerning fuel oils, nickel, chromium and cobalt;

Hospital establishments;

Primary education: curricula, teacher training and inspection of teachers;

Rules applicable to cooperative societies and mutual insurance;

Powers exercised in association between the State and New Caledonia: external relations; entry and stay of foreign nationals; law and order; gambling; audiovisual communication; research, higher education; and secondary education.

24. With respect to New Caledonia's relationship with its Pacific neighbours, 1999 was marked by high-level diplomatic visits to the Territory, such as those by the Governor-General of New Zealand in August and the Minister for Foreign Affairs of Australia in

October. The purpose of these visits was to explore commercial, economic and cultural partnerships.

25. From 23 to 27 August 1999, two international delegations were invited to the Territory. The first, the South Pacific Forum Ministerial Committee on New Caledonia, completed a fact-finding mission on the implementation of the Nouméa Accord and related developments. The Committee was led by Fiji's Deputy Prime Minister and Minister for Foreign Affairs and External Trade and comprised the Minister for Foreign Affairs of Solomon Islands and the Minister for Justice and the Environment of Nauru.[9] In October 1999, at the Pacific Islands Forum meeting in Palau, New Caledonia was admitted as an official observer.[10] The second delegation to visit New Caledonia in August consisted of representatives of a number of Pacific States' Missions to the United Nations in New York. This delegation was led by Ambassador Donigi, Permanent Representative of Papua New Guinea to the United Nations, and included representatives of Chile and Vanuatu.

26. In another regional development, the States within the Melanesian Spearhead Group (Fer de Lance) met in Vanuatu in June 1999 and decided to grant FLNKS full membership, while expressing the wish that the newly established Government of New Caledonia would officially request to join the group. In addition, New Caledonia is exploring the possibility of signing commercial agreements within the framework of this free-trade zone, which comprises Papua New Guinea, Vanuatu, Solomon Islands, Fiji and FLNKS.

27. According to the Government of France, the developments described above reveal both active international support for the Nouméa process and a better insertion of New Caledonia in its regional environment.

III. Economic data and developments

A. General

28. The 1996 census data set the active population of New Caledonia at 80,589 people, with an unemployment rate of 18.6 per cent for the entire Territory. Unemployment figures are, however, lower in the South, where the majority of the employment opportunities arise, and higher in the North and the Islands. According to information provided by the Government of France, in 1996, New Caledonia had a gross domestic product (GDP) valued at 335 million (Comptoirs Français du Pacifique francs (CFPF)), equivalent to US$ 3.56 million, or 1.7 million CFPF (US$ 18,085) per capita. Thus, the Territory ranked between New Zealand and Australia in terms of "created wealth" per person and at the average level by European standards. Nonetheless, in spite of its economic assets, New Caledonia also suffers from structural imbalances. Therefore, in the context of the Matignon and Nouméa Accords, much of the efforts of the Government of France and New Caledonian institutions in the past decade have been aimed at redressing the balance in terms of infrastructure, social services and employment possibilities among the three provinces. In financial terms, from 1990 to 1999, the State provided the inhabitants of the North Province and Loyalty Islands with 3.4 times more credit as it did the inhabitants of the South Province. Similarly, it has invested some US$ 48 million over the past decade in the construction of new schools and professional training colleges in the North Province and Loyalty Islands, and greatly increased spending on agricultural development, roads and bridges, medical facilities, tourism and fisheries in these two provinces.

B. Mineral resources

29. New Caledonia's economy is dominated by the nickel industry. The Territory has more than 20 per cent of the world's known nickel resources, is responsible for 6 per cent of the world's nickel output and employs some 3,500 people in firms of varying size. In 1998, nickel sales were negatively affected by the economic crisis in Asia, which provoked a 33-per-cent decline in the world price of nickel. During 1999, the increased demand for nickel from stainless steel makers and the steady improvement of nickel prices on international markets gave new confidence to the local economy. Although this is a highly dynamic sector, which makes up 90 to 95 per cent of New Caledonia's exports and which, in turn, generates numerous related economic activities, it is fragile in that it is almost entirely dependent on international demand and nickel prices. Thus, emphasis is currently being placed on the development of locally treated metallurgy (which creates more wealth) rather than on mineral exports.

30. It will be recalled that a precondition for the talks that led to the Nouméa Accord was the transfer of

nickel reserves from the French State-owned company, Eramet, to the Kanak-controlled Société minière du Sud-Pacifique (SMSP) (see A/AC.109/2114, para. 8). This transfer permitted SMSP to go ahead with plans for the construction of a smelter in the north of the island in a joint venture with the Canadian company Falconbridge. Under an agreement signed in February 1998, the Poum nickel deposit belonging to SMSP would be exchanged for the richer Koniambo deposit belonging to Eramet's New Caledonian unit, Société Le Nickel (SLN). This deposit would feed the planned new smelter. A decision on whether to build the new smelter is to be taken by 2005; otherwise, Koniambo will revert to SLN. In January 2000, SMSP/Falconbridge announced that their feasibility study for the new smelter would be completed by the end of 2002, three years ahead of schedule. Initial surveys indicate that the mineral deposits at Koniambo are of good quality and will last at least 25 years. The new smelter, to be situated 270 kilometres north of Nouméa, would produce some 54,000 tonnes of nickel ore per year and would employ 800 people.[11]

31. According to information from the Government of France, another plant, to be built in Goro, is expected to exploit the nickel deposits in the south of Grande Terre and provide for the creation of some 680 jobs. Pilot installations were inaugurated on 22 October 1999. The International Nickel Company (INCO) of Canada indicated in February 2000 that it would be deciding within this year whether to invest some US$ 897 million in developing the Goro plant. INCO has stated that initial prospects appear excellent.[12]

32. In February 2000, the Secretary of State for the Overseas Territories announced that the Government of France was proceeding with a 1999 agreement to divest some of its Eramet holdings and transferring them to a public organization to be formed by the provinces of New Caledonia. With the aim of equalizing economic resources among the three provinces, the Government proposes to distribute 40 per cent of the transferred assets to each of the North and South provinces and the remaining 20 per cent to the Loyalty Islands.[13]

33. Potentially encouraging for the future economy of New Caledonia was the discovery off its western coast in November 1999 of what is believed to be the world's largest gas deposits, measuring 80,000 square kilometres. The finding was made by the research vessel L'Atalante during the course of a study to evaluate marine and mineral resources in New Caledonia's exclusive economic zone. Initial results indicate that the reserves are much larger than first thought when the field was discovered in May 1998 by a joint French-Australian mission.[14] A further exploration is to be carried out in 2001 by the Institut français de recherche pour l'exploitation de la mer (IFREMER) in cooperation with the Institut français du pétrole and the ELF group.[15]

C. Other economic sectors

34. Other sectors that contribute to New Caledonia's GDP are (in descending order) public administration, commerce, services, construction and public works, small and medium industry, agriculture and tourism. While agriculture and fisheries account only for 2 per cent of GDP, they occupy a central place in New Caledonian society, employ some 30 per cent of the population and make it possible to contain the rural exodus. Rural development projects are aimed at increasing the local market, thereby decreasing the need for imported goods and further enhancing the possibilities of exporting produce such as prawns and tuna.

35. Tourism is regarded as another promising sector. It was only marginally affected by the Asian crisis, and the number of tourists visiting by air in 1998 (103,835) fell by only 1.2 per cent against the number that visited in 1997 (105,137). The greatest number of tourists (35,420) came from Japan. However, international tourism to New Caledonia fell by 10 per cent during 1999, owing mainly to changes in airline schedules, repeated closures at Tontouta International Airport and the high cost of air fares.[16] The Bank of Hawaii's *New Caledonia Economic Report* (June 1999) states that, with total-tourism related spending estimated at 15.8 per cent of GDP, there is room for considerable growth. There is substantial potential, especially in the rural provinces where the ecosystem is practically untouched.[17]

36. The French Government estimates that during 1999 exports from New Caledonia rose 2.4 per cent from the previous year's figures, thanks to the recovery of nickel prices and excellent prawn sales. However, imports also rose sharply, carrying the accumulated deficit in the balance of trade on 1 December 1999 to a new record of 61.3 million CFP francs, equivalent to US$ 519,491 (118 francs CFP to US$ 1 in December 1999).

D. Labour

37. Labour strikes in New Caledonia decreased by a third between 1998 and 1999.[18] Nonetheless, during the period under review, a number of strikes were led by the l'Union syndicale des ouvriers et employés de Nouvelle-Calédonie (USOENC), by USOENC-Mines and by l'Union syndicale des travailleurs kanaks et des exploités (USTKE), which have principally affected the Doniambo nickel smelter, the media, air transport and a number of businesses owned by Mr. Jacques Lafleur, President of the RPCR party. The union action took place mainly in the months leading up to 1 January 2000, the date on which jurisdiction in matters of labour law and union law was to be transferred to New Caledonian institutions. In September 1999, the Government of New Caledonia agreed to enter into negotiations with the unions and employers' organizations to reform the applicable rules on labour dispute prevention and settlement. While the sensitive issue of union representativeness has not yet been resolved, the Government's aim is to have a comprehensive text on social dialogue and employment policy signed by the symbolic date of 1 May 2000.

IV. Consideration of the question by the United Nations

A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

38. Two representatives of New Caledonia participated in the Caribbean Regional Seminar organized by the Special Committee to review the political, economic and social conditions in the small island Non-Self-Governing Territories and held at Castries, St. Lucia, from 25 to 27 May 1999.[19]

39. The Special Committee considered the question of New Caledonia at its 8th and 13th meetings, on 29 June and 9 July 1999. At its 8th meeting, the Chairman drew attention to the working paper prepared by the Secretariat (A/AC.109/1999/6). At the 13th meeting, the Chairman drew attention to the text of draft resolution A/AC.109/1999/L.14. A statement was made by the Islamic Republic of Iran (A/AC.109/1999/SR.13), following which the representative of Fiji introduced draft resolution A/AC.109/1999/L.14, also sponsored by the delegation of Papua New Guinea. The Special Committee adopted the draft resolution without a vote (A/AC.109/1999/30).

B. Special Political and Decolonization Committee (Fourth Committee)

40. At its 5th meeting, on 6 October 1999, the Special Political and Decolonization Committee (Fourth Committee) heard a statement by Roch Wamytan, President of FLNKS.

41. Mr. Wamytan said that 1998 had marked a turning point in the political and institutional history of New Caledonia, with the signing on 5 May of the Nouméa Accord between FLNKS, RPCR and the Government of France. The French National Assembly and Senate had also voted overwhelmingly to amend the 1958 Constitution to include key elements of the Accords. Moreover, more than 72 per cent of the population of New Caledonia had voted in favour of committing the Territory to a gradual process of emancipation that would extend over 15 years. By their vote, the Kanaks together with immigrant communities had demonstrated their desire to turn the page of colonization and to build and share in a common destiny.

42. Since the referendum, new institutions had been established, including provincial assemblies, a Congress, a Government and a Senate of customary leaders. An Economic and Social Council was also to be created shortly. In the area of foreign relations, New Caledonia had just been granted observer status in the South Pacific Forum, following a long struggle spearheaded by FLNKS.

43. Unfortunately, the optimism of the people of New Caledonia had begun to fade following the elaboration of the Territory's organic law. Indeed, FLNKS had had great difficulty in ensuring that RPCR and France respected the spirit and letter of the Nouméa Accord, particularly with regard to the principle of restricting the electoral roll for the provincial elections to be held in 2004, 2009 and 2014. The French Constitutional Council had misinterpreted the Accord by extending the right to vote to anyone settling in New Caledonia after November 1998, on condition that they had been

living there for 10 years. In view of the adverse impact of the Territory's settlement policy on Kanak nationalist claims during the preceding decades, numerous approaches had been made to the Government of France, resulting in a new draft constitutional amendment on the subject that was to be submitted to the French National Congress in early 2000. In addition, motivated by partisan interests and against the declared wishes of the people, RPCR had rejected some of the key provisions of the Nouméa Accord. It had also concluded a separate agreement with a dissident faction of FLNKS for the implementation of their own version of the Nouméa Accord. FLNKS had nevertheless remained in the Government in the hope of convincing RPCR to respect both the spirit and the letter of the Noumea Accord.

44. Those political developments had had adverse consequences for the country, including a return to the "wait and see" attitude which had prevailed prior to the negotiations. Even more serious were the questions raised by the Kanak people about the slow-down in the process of decolonization and emancipation which had begun with the signing of the Accord, and the danger which political developments posed to peace and harmony between the communities. As the colonial Power, France should do everything in its power to ensure the faithful implementation of the Accords. It should also keep the United Nations informed about the situation in the Territory under its administration. In that connection, he wished to thank the French authorities for authorizing the visit to New Caledonia by a United Nations mission. The Territory should remain on the list of Non-Self-Governing-Territories and, should the Committee of 24 be disbanded at the end of the International Decade for the Eradication of Colonialism, New Caledonia should be granted special status within the United Nations so that the voice of its people could continue to be heard (see A/C.4/54/SR.5, paras. 54-58).

45. At the 7th meeting, on 8 October 1999, the representative of the Syrian Arab Republic, in his capacity as Rapporteur of the Special Committee, read out changes to the draft resolution on the question of New Caledonia (A/54/23, part III) agreed upon during consultations. At the same meeting, the Fourth Committee approved the draft resolution, as orally amended, without a vote (see A/C.4/54/SR.7, paras. 36-37).

C. General Assembly

46. At the 71st plenary meeting of the General Assembly, on 6 December 1999, the Rapporteur of the Special Committee made reference to New Caledonia. He said that, in the interests of all the people of New Caledonia, and building on the positive outcome of the review of the Matignon and Nouméa Accords, the Special Committee urged all parties involved to maintain their dialogue in a spirit of harmony and to continue promoting a framework for the peaceful progress of the Territory towards an act of self-determination in which all options would be open and which would safeguard the rights of all New Caledonians according to the letter and spirit of the Matignon and Nouméa Accords (see A/54/PV.71).

47. At the same meeting, the representative of Papua New Guinea, in introducing draft resolution A/54/L.50 on the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, underscored that France, as the administering Power in New Caledonia, had cooperated informally with the Special Committee and had invited, on a bilateral basis, a ministerial mission from the Forum Island States and some representatives of Pacific States in New York to visit New Caledonia. The representative of Papua New Guinea had led the delegation from New York and would be making a report available to Member States in due course.

48. Speaking as a sponsor of draft resolution A/54/L.50, the representative of Fiji informed the Assembly that, at the South Pacific Forum meeting held in Palau, heads of Government had welcomed the signing of the Nouméa Accord, noted the report of the ministerial committee which had visited New Caledonia from 23 to 27 August 1999 and expressed the Forum's appreciation to the Government of France and the Government of New Caledonia for facilitating the visit. The South Pacific Forum had further reaffirmed its support for continuing contact with all committees in New Caledonia and its recognition of the rights of the people of New Caledonia to self-determination. In this regard, the leaders agreed to a continuing future monitoring role for the ministerial committee on New Caledonia during the implementation process of the Nouméa Accord, and encouraged the Government and all parties in New Caledonia to continue to maintain their commitment in earnest to its implementation, in keeping with the

intent and spirit of the Accord. The South Pacific Forum also called on those of its members that were willing to do so to make available training awards for the Kanak people in their own training institutions.

49. At the 71st plenary meeting, on 6 December 1999, the General Assembly adopted without a vote resolution 54/88 on the question of New Caledonia.

50. In that resolution, the General Assembly, in the interest of all the people of New Caledonia, urged all the parties involved to maintain their dialogue in a spirit of harmony, in the framework of the Nouméa Accord and to continue promoting a framework for the peaceful progress of the Territory towards an act of self-determination in which all options would be open. It welcomed measures taken to diversify the New Caledonian economy in all fields, as well as the importance attached to greater progress in housing, employment, training, education and health care. It also welcomed the accession by New Caledonia to the status of observer in the South Pacific Forum. The General Assembly decided to keep the process unfolding in New Caledonia under continuous review.

Notes

[1] The information contained in this paper has been derived from information transmitted to the Secretariat by the Government of France and from published sources.

[2] *Le Monde*, 11 May 1999.

[3] Economist Intelligence Unit Country Report, 4th quarter 1999.

[4] Agence France Presse, 19 October 1999.

[5] Secrétariat d'Etat à l'outre-mer, press communiqué, 15 June 1999.

[6] *Pacific Islands Report*, 13 and 14 October 1999.

[7] www.elysee.fr Press communiqué, 27 October 1999.

[8] *Le Monde*, 24 January 2000.

[9] South Pacific Forum Secretariat, Press Statement, 27 August 1999.

[10] Economist Intelligence Unit Country Report, 4th quarter 1999.

[11] Agence France Presse, 17 January 2000.

[12] *La Tribune*, 14 February 2000.

[13] Agence France Presse, 7 February 2000.

[14] Ibid., 9 November 1999.

[15] Ibid. and *Le Figaro*, 17 January 2000.

[16] Information from Government of France.

[17] Bank of Hawaii, *New Caledonia Economic Report*, June 1999.

[18] Speech by Haut Commissaire before Congress of New Caledonia, 7 December 1999.

[19] See *Official Records of the General Assembly, Fifty-fourth Session, Supplement No. 23* (A/54/23), chap. II, annex.

United Nations A/AC.109/2000/5

General Assembly

Distr.: General
26 April 2000

Original: English

Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Tokelau

Working paper prepared by the Secretariat

Contents

		Paragraphs	Page
I.	General	1–3	2
II.	Constitutional and political developments	4–10	2
	A. Constitutional developments	4–7	2
	B. Public service	8–10	3
III.	Economic and social conditions	11–19	3
	A. Economic development	11–16	3
	B. Status of women	17	4
	C. Education	18	4
	D. Health	19	4
IV.	Consideration of the question by the United Nations	20–22	5
	A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples	20	5
	B. Special Political and Decolonization Committee (Fourth Committee)	21	5
	C. Action by the General Assembly	22	5
V.	Future status of the Territory	23–31	5
	A. Position of the administering Power	23–29	5
	B. Position of the people of Tokelau	30–31	6

00-40336 (E) 090500

I. General

1. Tokelau,[1] a Non-Self-Governing Territory administered by New Zealand, consists of three small atolls in the South Pacific (Fakaofo, Nukunonu and Atafu), with a total area of approximately 12.2 square kilometres. Fakaofo is the southernmost atoll, Nukunonu is nearly 50 kilometres away and Atafu nearly 100 kilometres from Nukunonu. Samoa, 480 kilometres to the south, is the nearest sizeable neighbour.

2. Tokelauans are Polynesians with linguistic, family and cultural links with Samoa. The last five-yearly census, conducted in 1996, recorded a population of 1,507 people. In 1998, the population was estimated to have decreased to 1,443.[2] The constraints of atoll life and limited opportunities have led some 5,000 Tokelauans to settle abroad, particularly in New Zealand and Samoa.

3. The two main New Zealand appointees who engage with Tokelau are the Administrator, appointed by the Minister of Foreign Affairs and Trade, and the Tokelau Public Service (TPS) Commissioner, a delegate of the State Services Commissioner. Mr. Lindsay Watt, the Administrator, has been reappointed for a further two years, until February 2002. Mr. Aleki Silao, a New Zealand-based Tokelauan, will remain in his post as Public Service Commissioner until responsibility for public services is transferred to the Territory (see para. 9).

II. Constitutional and political developments

A. Constitutional developments

4. As reported in the previous working paper (A/AC.109/1999/17) on the question of Tokelau, the process of constitutional development is continuing. In August 1998, the General Fono (the national representative body) endorsed a comprehensive report entitled "Modern House of Tokelau" which addressed the core issue for Tokelau in creating a constitutional framework: how to construct a self-governing nation based on the village.

5. In accordance with recommendations made in the report, a new electoral system was instituted for the General Fono. In the past, the 27-seat General Fono was made up of members chosen by each village's Taupulega (Council of Elders) to serve three-year terms; only the Faipule (the representative of each village) and the Pulenuku (the mayor of each village) were elected. In January 1999, elections for a reformed General Fono, made up of 6 members from each village (18 altogether), were held on the basis of universal suffrage. Each village first elects four officials: Faipule, Pulenuku, Deputy Faipule and Deputy Pulenuku. Next, it elects two delegates nominated by designated groups in the village: women and the aumaga (the workforce of able-bodied men). The next elections for Faipule and other General Fono delegates are scheduled to be held in January 2002.

6. The newly elected General Fono reflects a generational change in General Fono membership. Delegates are now younger and have more formal education than before. In addition, whereas in the past membership in the General Fono was rotational in nature, several of the new delegates have served before. According to the administering Power, during the period under review, the organs of national self-government have progressively been given functions and powers previously exercised by the New Zealand Government and there has been a growing readiness on the part of Tokelau's traditional leaders to join in the building of new structures to meet the Territory's new needs. At meetings held with traditional leaders in the week of 6 March 2000, senior elected leaders stated that they were now ready to fully embark on the Modern House project. The Plan of Action being undertaken on a collaborative Tokelau-New Zealand basis is to pull together all the threads of the project before the new financial year begins on 1 July 2000. Accordingly, the project will be considered by each Taupulega before being discussed by the General Fono in June.

7. According to information provided by the Administrator, the 2000-2001 Plan of Action aims to:

(a) Integrate traditional decision-making processes with modern advice, thereby allowing elders to make quality decisions to meet the modern needs of their people;

(b) Set out the benefits to all the people, notably by showing that the spirit of pride and self-help can be recaptured under a village-centred approach and showing how Tokelau can best develop structures for economic survival within the global village;

(c) Describe the programmes and resources (human and material) required to build the Modern House, indicating all sources of funding (New Zealand and the United Nations Development Programme (UNDP) within the 2000/01 budget;

(d) Show how the delivery of public services can be changed by redistributing the workforce of "service deliverers and advisers" among the three Taupulega and the nation. This will improve the flow of information, the quality of advice and the standard of financial management. Information technology will be an important component in facilitating decision-making and improving links with Samoa and New Zealand;

(e) Enhance public understanding of the work of the General Fono's Special Constitution Committee, ongoing since 1995, to advance the goal of self-government, reflecting the political reality that the villages are the grantors of the powers of the national authority;

(f) Underline the scope for each atoll to proceed in ways that reflect its different characteristics.

B. Public service

8. Both the New Zealand and Tokelauan authorities have agreed that the arrangement whereby TPS is administered by the New Zealand State Services Commissioner no longer reflects the political reality in Tokelau. According to the Administrator, TPS may be seen as the administering Power's best endeavour in the 1970s to provide services in education, health, energy, transport and communications. Subsequent experience has shown, however, that this mechanism has been both help and hindrance: help in the sense that modern services have been provided; but hindrance in terms of the impact upon traditional leadership and upon village initiative, given that these services could be delivered only through a nationally based management system.

9. In July 1998, at the request of the territorial Government, the New Zealand State Services Commissioner appointed a New Zealand-based Tokelauan as TPS Commissioner in order to ensure the effective and efficient running of the existing TPS, and to assist Tokelau in developing and implementing a new independent public service that would fit within the new house of Tokelau.

10. The New Zealand Government now has legislation in place to enable responsibility for TPS to be passed from the State Services Commission in New Zealand to Tokelau, the timing to be set by mutual agreement when the Territory has established a suitable local employment framework. According to the Administrator, there is a wish on both sides to withdraw the State Services Commissioner as employer no later than 30 June 2001.

III. Economic and social conditions

A. Economic development

11. Traditional and communal values and practices play a key role in contributing to a state of general well-being and equity in the Territory, as evidenced by the redistributive principles of traditional wealth (the *inati* system) and the importance attached to upholding the concept of the family and/or the extended family. The tradition of *inati* requires the deposition at a central location of food and produce, which are then apportioned by the distributors on the basis of "share groups". The principle provides for a secure distribution system that caters to the needs of every member of the community, including the elderly, widows, single parents and children.

12. Major constraints on economic growth include natural disadvantages, such as the small size of Tokelau, isolation, the geographical spread of the atolls, limited and poor natural resources, and proneness to natural disasters (such as cyclones). Tokelau's economic stability has been made possible by the high levels of assistance provided by the administering Power, which has committed itself to contributing not less than 4.5 million New Zealand dollars (NZ$) for ongoing support for self-government for the next five years, as well as ongoing support for such projects as enterprise and infrastructure development.

13. As part of "building the Modern House of Tokelau", the Territory and the administering Power have established a joint Trust Fund as a vehicle whereby Tokelau can seek to become economically independent. This Trust Fund is supported in part through the rentier income that Tokelau receives from payments accruing to its exclusive economic zone, as well as through contributions from appropriate

agencies and programmes of the administering Power. Total expenditure by the New Zealand Official Development Assistance programme (NZODA) for the 1999/2000 financial year is projected at over NZ$ 6.5 million (US$ 3.3 million), which amounts to some US$ 2,100 per person.[3] Of this expenditure, NZ$ 4.5 million is assigned to "support for self-government" and NZ$ 2 million to project support. An additional payment of NZ$ 900,000 was made in June 1999, related to an earlier deficit, while a further payment of NZ$ 1.2 million was paid to Tokelau in December 1999 to enable it to meet funding gaps that had arisen in a number of areas, especially shipping. Both parties continue to draw on the services of an independent economic and financial adviser. A special mission in March 2000 focused on the 2000/01 official development assistance (ODA) programme. Consideration is being given to supplementing current levels of support with "traditional assistance" designed largely to fund capacity-building and advice in support of the Modern House project.

14. Regarding UNDP activities in Tokelau, they continue to support projects to build up Tokelauan social and economic capabilities. The Constitutional Development project is building on the groundwork commenced in 1997. In the context of UNDP's country cooperation framework for Tokelau (1998-2002), two new projects were initiated in December 1999, totalling US$ 360,000. A governance and public sector strengthening project is focusing on the establishment of an economic planning unit in TPS and on the upgrading of financial accounting and management services. A second project aims to develop a private sector based on marine resources and coconuts. Both projects are linked to job creation and sustainable livelihoods programmes within the Enterprise Development Agency newly created by NZODA.[4]

15. The International Labour Organization (ILO) has developed a Small Business Development project, which is being considered by the Government in Tokelau. Another ILO project proposes to rebuild the sea wall as part of employment-intensive and reconstruction activities.[5]

16. An up-to-date international telephone service that cost NZ$ 4 million and was inaugurated in April 1997 is expected to contribute to the Territory's progress towards self-determination by facilitating Tokelau's contact with the outside world. Previously, Tokelau had to rely on short-wave links to Samoa and a mail ship that visited every five weeks. Of the total cost, New Zealand contributed NZ$ 1.5 million and Tokelau NZ$ 1.6 million. UNDP and the International Telecommunication Union (ITU) provided the balance. Talks are ongoing between the Government of Tokelau and ITU on the use of residual project funds. Currently, a project funded by the Small Island Developing States Network (SIDSNET) is setting up a system to allow Tokelauans to have access to e-mail.[6]

B. Status of women

17. Women are well integrated in Tokelauan society. They participate fully in the village decision-making process, through women's committees, the village Councils of Elders and their membership in the General Fono. The new electoral system for the General Fono has increased gender equity. Women elected to the General Fono no longer function as the representative of the women's committee, but are responsible for representing all the people of the village. Tokelauan women have traditionally been involved in fishing for octopus and clam.[7] In May 1999, a Tokelauan was included in a training course in seafood business operations and management organized for women of the Pacific region by the New Zealand School of Fisheries.[8]

C. Education

18. Under Tokelau's compulsory education system, primary and secondary education is available to everyone. However, the low standard of the education system remains a problem, with many families migrating to New Zealand or Samoa in order for their children to receive higher-quality education. Tokelau is the only member of the University of the South Pacific (USP) that does not have a USP Extension Centre. However, a new initiative funded by New Zealand, Australia and Japan may include Tokelau in an educational telecommunications system known as USPNet.[9]

D. Health

19. Average life expectancy is 69 years,[10] and there is easy access to health clinics. However, the shortage of qualified medical practitioners, surgeons and general

healthcare workers remains a serious problem on all of the atolls. The necessity of transferring the more serious cases to Samoa or New Zealand for treatment represents a large expense in the national budget.

IV. Consideration of the question by the United Nations

A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

20. The Special Committee considered the question of Tokelau at its 9th meeting, on 29 June 1999. Statements were made by Aliki FaipulePio Tuia, Ulu O Tokelau (titular head of Tokelau), and by Mr. Lindsay Watt, Administrator of Tokelau. The Ulu answered questions posed by the representatives of Côte d'Ivoire and the Syrian Arab Republic. Statements were then made by the representatives of Fiji, Bolivia, Papua New Guinea and Chile. The Chairman drew the members' attention to the draft resolution contained in document A/AC.109/1999/L.7 which was then introduced by the representative of Papua New Guinea. The Committee adopted the draft resolution without a vote (A/AC.109/1999/22).

B. Special Political and Decolonization Committee (Fourth Committee)

21. At its third meeting, on 4 October 1999, the Special Political and Decolonization Committee (Fourth Committee) heard a statement by Ambassador Michael Powles, Permanent Representative of New Zealand to the United Nations (see A/C.4/54/SR.3, para. 26). At its eighth meeting, on 8 October 1999, the Committee adopted the draft resolution entitled "Question of Tokelau" contained in document A/54/23 (Part III), chapter XIII, section E, without a vote.

C. Action by the General Assembly

22. On 6 December 1999, the Rapporteur of the Special Committee introduced the report of the Special Committee to the General Assembly. With regard to Tokelau, he stated that the Special Committee had noted the firm commitment of the Territory to the development of self-government and to an act of self-determination. In this regard, the Special Committee had noted the inauguration in 1999 of a national Government based on village elections by universal adult suffrage. It commended Tokelau for its ongoing work in charting a distinctive, constitutional course that reflected its unique traditions and environment. The Special Committee noted with appreciation the continuing exemplary cooperation of the administering Power, New Zealand, in its work and, in particular, its readiness to permit access of visiting missions to the Territory (A/54/PV.71). The Assembly adopted its resolution 54/89 on the question of Tokelau without a vote.

V. Future status of the Territory

A. Position of the administering Power

23. Speaking before the Special Committee on 29 June 1999, the Administrator of Tokelau, Mr. Lindsay Watt, said that Tokelau was on track to self-determine, but that special features in its situation could mean that, for its own entirely explicable reasons, it might not be able to self-determine in the nearer future. On the one hand, Tokelau could be seen to be on track to self-determine essentially because it recognized that a century or more of contact with the outside world had given it a new set of needs, which were modern ones, and that therefore traditional ways and codes could not by themselves sustain productive livelihoods: hence, the development of a national governance capacity and, with that, the decision to modernize the three village structures. The former had required the devolution of executive and legislative powers to Tokelau. There had also been much home-generated work on governance arrangements, on the concept of the Modern House of Tokelau, on a Constitution and on the place and function of the national representative body, the General Fono.

24. On the other hand, Mr. Watt added, there were special reasons — having to do with culture and history — that meant that Tokelau might not be able to self-determine in the near future. These factors would shape the end result and influence the timing. The Special Committee needed to keep in mind why it was that, in 1994, the fourth visiting mission had received a

different message from the previous three. Now, for the first time, Tokelau said that it was willing to consider actively moving ahead to self-determination at a still unspecified time. Why? This was because a combination of circumstances allowed the "modern" view of Tokelau's needs to gain the support of the Faipule who were then assuming new national roles. They became convinced that it was in the interests of all Tokelauans to dip a toe into new constitutional territory.

25. The Administrator went on to say that, equally, the Special Committee must heed tradition. It would be fair to say that Faipule had carried, more than convinced, traditional leaders as to the correctness and necessity of the contemporary constitutional journey. Just as in 1994 a modern view had come through, so in 1999 or later a different combination of circumstances could prompt traditional leaders to call a halt to the journey. They remained the ultimate arbiters and must necessarily play a central role in future governance.

26. Speaking before the Fourth Committee on 4 October 1999, Ambassador Michael Powles, Permanent Representative of New Zealand to the United Nations, said that the current year had seen further progress on the question of Tokelau. The organs of national self-government of Tokelau were progressively being given functions and powers previously exercised by the New Zealand Government and there was a growing readiness of Tokelau's traditional leaders to join in building new structures to meet the Territory's governance needs. In addition, legislation had been adopted to transfer responsibility for the Tokelau Public Service from the New Zealand authorities to Tokelau.

27. He added that there was no doubt that Tokelau was on track to undertake an act of self-determination in the conventional sense. However, the particular features of its situation could mean that the Territory might not be ready to take that step in the very near future. As the Ulu noted in his statement, in 1994 Tokelau had expressed a preference for a status of free association with New Zealand, but since that time the emphasis on governance-related issues had relegated political status to the background. The Ulu also expressed the wish that the United Nations and New Zealand should work together with Tokelau towards a greater degree of self-government and economic self-sufficiency.

28. New Zealand welcomed the intention of the Special Committee to pay special attention to the specific problems of the small island Territories which constituted the majority of the territories that had still not achieved self-determination. It also welcomed, and willingly participated in, the process of informal contacts initiated by the Chairman and the Bureau at the request of the Special Committee to improve cooperation between the Special Committee and the administering Powers.

29. In New Zealand's view, the Special Committee faced a key challenge in the new millennium: how could the United Nations provide the reassurance over a longer term that some of the smallest and most remote remaining Territories, such as Tokelau, so clearly sought. The response to that challenge would require the fullest cooperation among the Special Committee, the Territories themselves and the administering Powers. New Zealand looked forward to making its contribution to that process (A/C.4/54/SR.3).

B. Position of the people of Tokelau

30. The issue of self-determination is under active consideration by the people of Tokelau. Speaking to the Special Committee on 29 June 1999, the Ulu O Tokelau listed the many developments that had taken place in 1999. He said: that it was the first year of the third national Government, as Tokelauan elections were held on a three-yearly cycle; that it was the year during which the New Zealand Government had agreed to terminate its control of Tokelauan national public service in the year 2000, thus re-empowering, strengthening and returning to the rightful owners the authority to manage and adjudicate over village affairs; and that 1999 was also the first year of a long-term financial plan recently agreed with the Government of New Zealand, a major part of which was the creation of a Trust Fund intended to bring about a greater closeness to the goal of self-reliance to the greatest extent possible. The Ulu added that, during 1999, they were once again refocusing on the Constitution with an emphasis on formalizing further aspects of national governm[illegible]t structures contained in the "first glimpse of the Constitution", and on how to place them within the context of the villages, which were the foundation of the nation. Furthermore, he said that this year, with the valuable support of UNDP, they would be engaging

in economic activities that, in the long term, would lead to sustainable livelihoods.

31. Regarding the future, the Ulu spoke as follows:

> "The pressure is on. We need your help now and beyond the year 2000. We need the support of the Government of New Zealand and for that support to continue to be guided by the wishes of the elders and the people of Tokelau. We are confident that we can rely on it, and on that basis continue on the path of development of the self-government of Tokelau ...
>
> "With the support of her other two partners, Tokelau has taken this journey for her own reasons. Reasons we believe are happily consistent with those of the administering Power and the United Nations. For we wish to keep and maintain our identity, vitality and, most of all, our dignity and our integrity. Of all our possessions these are our most precious ones. Those that are in 'sacred trust' ...
>
> "... in regard to the political status options, it is well known that, also in 1994, Tokelau expressed a preference for a status of free association with New Zealand. Since then, our main focus has been on governance-related issues. This has placed the political status issues a little in the background. In addition, any detailed consideration of timing depends on our ability to resolve governance issues. Hence our Modern House project.
>
> "At this point, I would simply like to say that a present preference for a status of free association does not mean that Tokelau dismisses any possibility that it might decide to pursue another option — particularly that of integration. Indeed, Tokelau would wish to be more fully informed, in its dialogue with its administering Power, of what would be possible under the integration option, as well as under the free-association one ...
>
> "Today I am imploring the United Nations and the Government of New Zealand to work together with us as partners in this process of decolonization. Tokelau needs continuing support through this process. Continuing dialogue with New Zealand and the outside world is vital. So is the provision of the necessary resources from New Zealand and the international community. Tokelau is grateful for the continuing interest and support of the United Nations ..."

Notes

[1] The information contained in the present paper has been derived from information provided to the Secretariat by the Permanent Mission of New Zealand to the United Nations, by the United Nations Development Programme (UNDP) and by the International Labour Organization (ILO) and from published sources.

[2] Central Intelligence Agency, *World Factbook, 1998.*

[3] Statement by the Permanent Representative of New Zealand to the United Nations, 4 October 1999.

[4] Information from UNDP office, Samoa, 21 February 2000.

[5] Information from ILO office, Fiji, 4 March 2000.

[6] Information from UNDP office, Samoa, 21 February 2000.

[7] Pacific Islands report, Cook Islands News On-line, 1 July 1999.

[8] Secretariat of the Pacific Community, press release, 6 May 1999.

[9] Pacific Islands report, Wansolwara Pasific Nius/ Niuswire, 7 April 1999.

[10] UNDP, *Pacific Human Development Report, 1999.*